

**Introduced by Senator De León
(Coauthor: Senator Yee)**

(Coauthors: Assembly Members Alejo, Swanson, and Williams)

February 13, 2012

An act to amend Section 3040 of the Family Code, to amend Sections 1510 and 1514 of the Probate Code, and to amend Sections 309, 361, 361.2, 361.3, 361.4, 361.5, 366.21, 366.215, 366.22, 366.25, 366.27, 388, and 16501.1 of, and to add Sections 10609.95 and 10609.97 to, the Welfare and Institutions Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

SB 1064, as introduced, De León. Child custody: immigration.

(1) Under existing law, a child who is removed from the physical custody of his or her parents in dissolution, dependency, or probate guardianship proceedings may be placed with a relative. When a child is placed with his or her relative during dependency proceedings and the relative is not a licensed or certified foster parent, existing law requires a county social worker to visit the relative's home, prior to placing the child in that home, to ascertain the appropriateness of the placement. Existing law also requires the court or county social worker to initiate a state and federal criminal records check of the relative through the California Law Enforcement Telecommunications System as part of the assessment.

This bill would permit a court to place a child in any of those proceedings with a relative regardless of the relative's immigration status. This bill would also permit a relative's foreign consulate identification card or foreign passport to be used for initiating the criminal records and fingerprint clearance checks. To the extent this

bill would impose additional duties on county welfare departments, this bill would create a state-mandated local program.

(2) Existing law sets forth the procedure for terminating the parental rights of a dependent child, including regular review hearings before a court may order a hearing to terminate parental rights. Under existing law, a court may continue these review hearings if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian.

This bill would authorize a court to extend the review hearing periods following consideration of the parent's circumstances if a parent has been arrested and issued an immigration hold, detained by the United States Immigration and Customs Enforcement, or deported to his or her country of origin, and, under these circumstances would authorize a court to continue the case only if the court finds that the parent has made reasonable efforts to regain custody of the child or that termination of parental rights would be detrimental to the child. The bill would prohibit this extension under specified circumstances, including if the child was an abandoned infant, the parent was accused of murder or voluntary manslaughter of another of his or her children or of felony assault against this child or another of the parent's children. Additionally, the bill would authorize a court to decide not to extend the case if the child was under 3 years of age or part of a sibling group in which at least one child was under 3 years of age and the siblings were or should be placed together. The bill would permit the review hearing to be extended up to a maximum period not to exceed 24 months after the date the child was removed from the parent's physical custody.

(3) Existing law establishes the State Department of Social Services, which oversees the administration of county public social services, including child welfare services.

This bill would require the State Department of Social Services to provide guidance to counties and municipalities to establish memoranda of understanding with foreign consulates in child custody cases, including procedures for contacting a consulate, accessing a child's documentation, locating a detained parent, assisting in family reunification after a parent has been deported, and communicating with relevant departments and services in a parent's country of origin. The bill would require a county or municipality subject to a memorandum of understanding to contact a foreign consulate for necessary documents

if a child in a child custody case is eligible for special immigrant juvenile status under federal law. Additionally, the bill would require the department to provide guidelines to counties and municipalities detailing procedures for social workers to assist children in child custody and dependency cases who are eligible for special immigrant juvenile status.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3040 of the Family Code is amended to
2 read:

3 3040. (a) Custody should be granted in the following order of
4 preference according to the best interest of the child as provided
5 in Sections 3011 and 3020:

6 (1) To both parents jointly pursuant to Chapter 4 (commencing
7 with Section 3080) or to either parent. In making an order granting
8 custody to either parent, the court shall consider, among other
9 factors, which parent is more likely to allow the child frequent and
10 continuing contact with the noncustodial parent, consistent with
11 ~~Section~~ Sections 3011 and 3020, and shall not prefer a parent as
12 custodian because of that parent's sex. The court, in its discretion,
13 may require the parents to submit to the court a plan for the
14 implementation of the custody order.

15 (2) If to neither parent, to the person or persons in whose home
16 the child has been living in a wholesome and stable environment.

17 (3) To any other person or persons deemed by the court to be
18 suitable and able to provide adequate and proper care and guidance
19 for the child.

20 (b) A relative's immigration status shall not disqualify the
21 relative from receiving custody under paragraphs (2) and (3) of
22 subdivision (a).

23 (b)

1 (c) This section establishes neither a preference nor a
2 presumption for or against joint legal custody, joint physical
3 custody, or sole custody, but allows the court and the family the
4 widest discretion to choose a parenting plan that is in the best
5 interest of the child.

6 SEC. 2. Section 1510 of the Probate Code is amended to read:

7 1510. (a) A relative or other person on behalf of the minor, or
8 the minor if 12 years of age or older, may file a petition for the
9 appointment of a guardian of the minor. *A relative may file a*
10 *guardianship under this section regardless of the relative's*
11 *immigration status.*

12 (b) The petition shall request that a guardian of the person or
13 estate of the minor, or both, be appointed, shall specify the name
14 and address of the proposed guardian and the name and date of
15 birth of the proposed ward, and shall state that the appointment is
16 necessary or convenient.

17 (c) The petition shall set forth, so far as is known to the
18 petitioner, the names and addresses of all of the following:

19 (1) The parents of the proposed ward.

20 (2) The person having legal custody of the proposed ward and,
21 if that person does not have the care of the proposed ward, the
22 person having the care of the proposed ward.

23 (3) The relatives of the proposed ward within the second degree.

24 (4) In the case of a guardianship of the estate, the spouse of the
25 proposed ward.

26 (5) Any person nominated as guardian for the proposed ward
27 under Section 1500 or 1501.

28 (6) In the case of a guardianship of the person involving an
29 Indian child, any Indian custodian and the Indian child's tribe.

30 (d) If the proposed ward is a patient in or on leave of absence
31 from a state institution under the jurisdiction of the State
32 Department of Mental Health or the State Department of
33 Developmental Services and that fact is known to the petitioner,
34 the petition shall state that fact and name the institution.

35 (e) The petition shall state, so far as is known to the petitioner,
36 whether or not the proposed ward is receiving or is entitled to
37 receive benefits from the Veterans Administration and the
38 estimated amount of the monthly benefit payable by the Veterans
39 Administration for the proposed ward.

1 (f) If the petitioner has knowledge of any pending adoption,
2 juvenile court, marriage dissolution, domestic relations, custody,
3 or other similar proceeding affecting the proposed ward, the
4 petition shall disclose the pending proceeding.

5 (g) If the petitioners have accepted or intend to accept physical
6 care or custody of the child with intent to adopt, whether formed
7 at the time of placement or formed subsequent to placement, the
8 petitioners shall so state in the guardianship petition, whether or
9 not an adoption petition has been filed.

10 (h) If the proposed ward is or becomes the subject of an adoption
11 petition, the court shall order the guardianship petition consolidated
12 with the adoption petition, and the consolidated case shall be heard
13 and decided in the court in which the adoption is pending.

14 (i) If the proposed ward is or may be an Indian child, the petition
15 shall state that fact.

16 SEC. 3. Section 1514 of the Probate Code is amended to read:

17 1514. (a) Upon hearing of the petition, if it appears necessary
18 or convenient, the court may appoint a guardian of the person or
19 estate of the proposed ward or both.

20 (b) (1) In appointing a guardian of the person, the court is
21 governed by Chapter 1 (commencing with Section 3020) and
22 Chapter 2 (commencing with Section 3040) of Part 2 of Division
23 8 of the Family Code, relating to custody of a minor.

24 (2) Except as provided in Section 2105, a minor's parent may
25 not be appointed as a guardian of the person of the minor.

26 (c) The court shall appoint a guardian nominated under Section
27 1500 insofar as the nomination relates to the guardianship of the
28 estate unless the court determines that the nominee is unsuitable.
29 *If the nominee is a relative, the nominee's immigration status alone*
30 *shall not constitute unsuitability.*

31 (d) The court shall appoint the person nominated under Section
32 1501 as guardian of the property covered by the nomination unless
33 the court determines that the nominee is unsuitable. If the person
34 so appointed is appointed only as guardian of the property covered
35 by the nomination, the letters of guardianship shall so indicate.

36 (e) Subject to subdivisions (c) and (d), in appointing a guardian
37 of the estate:

38 (1) The court is to be guided by what appears to be in the best
39 interest of the proposed ward, taking into account the proposed
40 guardian's ability to manage and to preserve the estate as well as

1 the proposed guardian's concern for and interest in the welfare of
2 the proposed ward.

3 (2) If the proposed ward is of sufficient age to form an intelligent
4 preference as to the person to be appointed as guardian, the court
5 shall give consideration to that preference in determining the person
6 to be so appointed.

7 SEC. 4. Section 309 of the Welfare and Institutions Code is
8 amended to read:

9 309. (a) Upon delivery to the social worker of a child who has
10 been taken into temporary custody under this article, the social
11 worker shall immediately investigate the circumstances of the child
12 and the facts surrounding the child's being taken into custody and
13 attempt to maintain the child with the child's family through the
14 provision of services. The social worker shall immediately release
15 the child to the custody of the child's parent, guardian, or
16 responsible relative, *regardless of the relative's immigration status*,
17 unless one or more of the following conditions exist:

18 (1) The child has no parent, guardian, or responsible relative;
19 or the child's parent, guardian, or responsible relative is not willing
20 to provide care for the child.

21 (2) Continued detention of the child is a matter of immediate
22 and urgent necessity for the protection of the child and there are
23 no reasonable means by which the child can be protected in his or
24 her home or the home of a responsible relative.

25 (3) There is substantial evidence that a parent, guardian, or
26 custodian of the child is likely to flee the jurisdiction of the court.

27 (4) The child has left a placement in which he or she was placed
28 by the juvenile court.

29 (5) The parent or other person having lawful custody of the
30 child voluntarily surrendered physical custody of the child pursuant
31 to Section 1255.7 of the Health and Safety Code and did not
32 reclaim the child within the 14-day period specified in subdivision
33 (e) of that section.

34 (b) In any case in which there is reasonable cause for believing
35 that a child who is under the care of a physician and surgeon or a
36 hospital, clinic, or other medical facility and cannot be immediately
37 moved and is a person described in Section 300, the child shall be
38 deemed to have been taken into temporary custody and delivered
39 to the social worker for the purposes of this chapter while the child
40 is at the office of the physician and surgeon or the medical facility.

1 (c) If the child is not released to his or her parent or guardian,
2 the child shall be deemed detained for purposes of this chapter.

3 (d) (1) If an able and willing relative, as defined in Section 319,
4 or an able and willing nonrelative extended family member, as
5 defined in Section 362.7, is available and requests temporary
6 placement of the child pending the detention hearing, the county
7 welfare department shall initiate an assessment of the relative's or
8 nonrelative extended family member's suitability, which shall
9 include an in-home inspection to assess the safety of the home and
10 the ability of the relative or nonrelative extended family member
11 to care for the child's needs, and a consideration of the results of
12 a criminal records check conducted pursuant to subdivision (a) of
13 Section 16504.5 and a check of allegations of prior child abuse or
14 neglect concerning the relative or nonrelative extended family
15 member and other adults in the home. *A relative's identification*
16 *card from a foreign consulate or foreign passport shall be*
17 *considered a valid form of identification for conducting a criminal*
18 *records check and fingerprint clearance check under this*
19 *subdivision.* Upon completion of this assessment, the child may
20 be placed in the assessed home. For purposes of this paragraph,
21 and except for the criminal records check conducted pursuant to
22 subdivision (a) of Section 16504.5, the standards used to determine
23 suitability shall be the same standards set forth in the regulations
24 for the licensing of foster family homes.

25 (2) Immediately following the placement of a child in the home
26 of a relative or a nonrelative extended family member, the county
27 welfare department shall evaluate and approve or deny the home
28 for purposes of AFDC-FC eligibility pursuant to Section 11402.
29 The standards used to evaluate and grant or deny approval of the
30 home of the relative and of the home of a nonrelative extended
31 family member, as described in Section 362.7, shall be the same
32 standards set forth in regulations for the licensing of foster family
33 homes which prescribe standards of safety and sanitation for the
34 physical plant and standards for basic personal care, supervision,
35 and services provided by the caregiver.

36 (3) To the extent allowed by federal law, as a condition of
37 receiving funding under Title IV-E of the federal Social Security
38 Act (42 U.S.C. Sec. 670 et seq.), if a relative or nonrelative
39 extended family member meets all other conditions for approval,
40 except for the receipt of the Federal Bureau of Investigation's

1 criminal history information for the relative or nonrelative extended
2 family member, and other adults in the home, as indicated, the
3 county welfare department may approve the home and document
4 that approval, if the relative or nonrelative extended family
5 member, and each adult in the home, has signed and submitted a
6 statement that he or she has never been convicted of a crime in the
7 United States, other than a traffic infraction as defined in paragraph
8 (1) of subdivision (a) of Section 42001 of the Vehicle Code. If,
9 after the approval has been granted, the department determines
10 that the relative or nonrelative extended family member or other
11 adult in the home has a criminal record, the approval may be
12 terminated.

13 (4) If the criminal records check indicates that the person has
14 been convicted of a crime for which the Director of Social Services
15 cannot grant an exemption under Section 1522 of the Health and
16 Safety Code, the child shall not be placed in the home. If the
17 criminal records check indicates that the person has been convicted
18 of a crime for which the Director of Social Services may grant an
19 exemption under Section 1522 of the Health and Safety Code, the
20 child shall not be placed in the home unless a criminal records
21 exemption has been granted by the county based on substantial
22 and convincing evidence to support a reasonable belief that the
23 person with the criminal conviction is of such good character as
24 to justify the placement and not present a risk of harm to the child.

25 (e) (1) If the child is removed, the social worker shall conduct,
26 within 30 days, an investigation in order to identify and locate all
27 grandparents, adult siblings, and other adult relatives of the child,
28 as defined in paragraph (2) of subdivision (f) of Section 319,
29 including any other adult relatives suggested by the parents. The
30 social worker shall provide to all adult relatives who are located,
31 except when that relative's history of family or domestic violence
32 makes notification inappropriate, within 30 days of removal of the
33 child, written notification and shall also, whenever appropriate,
34 provide oral notification, in person or by telephone, of all the
35 following information:

36 (A) The child has been removed from the custody of his or her
37 parent or parents, or his or her guardians.

38 (B) An explanation of the various options to participate in the
39 care and placement of the child and support for the child's family,
40 including any options that may be lost by failing to respond. The

1 notice shall provide information about providing care for the child
2 while the family receives reunification services with the goal of
3 returning the child to the parent or guardian, how to become a
4 foster family home or approved relative or nonrelative extended
5 family member as defined in Section 362.7, and additional services
6 and support that are available in out-of-home placements. The
7 notice shall also include information regarding the Kin-GAP
8 Program (Article 4.5 (commencing with Section 11360) of Chapter
9 2 of Part 3 of Division 9), the CalWORKs program for approved
10 relative caregivers (Chapter 2 (commencing with Section 11200)
11 of Part 3 of Division 9), adoption, and adoption assistance (Chapter
12 2.1 (commencing with Section 16115) of Part 4 of Division 9), as
13 well as other options for contact with the child, including, but not
14 limited to, visitation. The State Department of Social Services, in
15 consultation with the County Welfare Directors Association of
16 *California* and other interested stakeholders, shall develop the
17 written notice.

18 (2) On and after January 1, 2011, the social worker shall also
19 provide the adult relatives notified pursuant to paragraph (1) with
20 a relative information form to provide information to the social
21 worker and the court regarding the needs of the child. The form
22 shall include a provision whereby the relative may request the
23 permission of the court to address the court, if the relative so
24 chooses. The Judicial Council, in consultation with the State
25 Department of Social Services and the County Welfare Directors
26 Association of *California*, shall develop the form.

27 (3) The social worker shall use due diligence in investigating
28 the names and locations of the relatives pursuant to paragraph (1),
29 including, but not limited to, asking the child in an age-appropriate
30 manner about relatives important to the child, consistent with the
31 child's best interest, and obtaining information regarding the
32 location of the child's adult relatives. Each county welfare
33 department shall create and make public a procedure by which
34 relatives of a child who has been removed from his or her parents
35 or guardians may identify themselves to the county welfare
36 department and be provided with the notices required by paragraphs
37 (1) and (2).

38 SEC. 5. Section 361 of the Welfare and Institutions Code is
39 amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child chooses not to make educational or developmental services decisions for himself or herself, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational or developmental services decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational or developmental services decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph ~~(3)~~ (5) of subdivision (g) of Section 366.21, Section 366.22, or Section 366.26, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child in matters related to developmental services.

An individual who would have a conflict of interest in representing the child may not be appointed to make educational or developmental services decisions. For purposes of this section, “an individual who would have a conflict of interest,” means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions,

1 including, but not limited to, those conflicts of interest prohibited
2 by Section 1126 of the Government Code, and the receipt of
3 compensation or attorneys' fees for the provision of services
4 pursuant to this section. A foster parent may not be deemed to
5 have a conflict of interest solely because he or she receives
6 compensation for the provision of services pursuant to this section.

7 If the court is unable to appoint a responsible adult to make
8 educational decisions for the child and paragraphs (1) to (5),
9 inclusive, do not apply, and the child has either been referred to
10 the local educational agency for special education and related
11 services, or has a valid individualized education program, the court
12 shall refer the child to the local educational agency for appointment
13 of a surrogate parent pursuant to Section 7579.5 of the Government
14 Code.

15 If the court cannot identify a responsible adult to make
16 educational decisions for the child, the appointment of a surrogate
17 parent as defined in subdivision (a) of Section 56050 of the
18 Education Code is not warranted, and there is no foster parent to
19 exercise the authority granted by Section 56055 of the Education
20 Code, the court may, with the input of any interested person, make
21 educational decisions for the child.

22 If the court appoints a developmental services decisionmaker
23 pursuant to this section, he or she shall have the authority to access
24 the child's information and records pursuant to subdivision (u) of
25 Section 4514 and subdivision (y) of Section 5328, and to act on
26 the child's behalf for the purposes of the individual program plan
27 process pursuant to Sections 4646, 4646.5, and 4648 and the fair
28 hearing process pursuant to Chapter 7 (commencing with Section
29 4700) of Division 4.5, and as set forth in the court order.

30 If the court cannot identify a responsible adult to make
31 developmental services decisions for the child, the court may, with
32 the input of any interested person, make developmental services
33 decisions for the child. If the child is receiving services from a
34 regional center, the provision of any developmental services related
35 to the court's decision must be consistent with the child's individual
36 program plan and pursuant to the provisions of the Lanterman
37 Developmental Disabilities Services Act (Division 4.5
38 (commencing with Section 4500)).

39 All educational and school placement decisions shall seek to
40 ensure that the child is in the least restrictive educational programs

1 and has access to the academic resources, services, and
2 extracurricular and enrichment activities that are available to all
3 pupils. In all instances, educational and school placement decisions
4 shall be based on the best interests of the child.

5 (b) Subdivision (a) does not limit the ability of a parent to
6 voluntarily relinquish his or her child to the State Department of
7 Social Services or to a licensed county adoption agency at any
8 time while the child is a dependent child of the juvenile court, if
9 the department or agency is willing to accept the relinquishment.

10 (c) A dependent child may not be taken from the physical
11 custody of his or her parents or guardian or guardians with whom
12 the child resides at the time the petition was initiated, unless the
13 juvenile court finds clear and convincing evidence of any of the
14 following circumstances listed in paragraphs (1) to (5), inclusive,
15 and, in an Indian child custody proceeding, paragraph (6):

16 (1) There is or would be a substantial danger to the physical
17 health, safety, protection, or physical or emotional well-being of
18 the minor if the minor were returned home, and there are no
19 reasonable means by which the minor's physical health can be
20 protected without removing the minor from the minor's parent's
21 or guardian's physical custody. The fact that a minor has been
22 adjudicated a dependent child of the court pursuant to subdivision
23 (e) of Section 300 shall constitute prima facie evidence that the
24 minor cannot be safely left in the physical custody of the parent
25 or guardian with whom the minor resided at the time of injury.
26 The court shall consider, as a reasonable means to protect the
27 minor, the option of removing an offending parent or guardian
28 from the home. The court shall also consider, as a reasonable means
29 to protect the minor, allowing a nonoffending parent or guardian
30 to retain physical custody as long as that parent or guardian
31 presents a plan acceptable to the court demonstrating that he or
32 she will be able to protect the child from future harm.

33 (2) The parent or guardian of the minor is unwilling to have
34 physical custody of the minor, and the parent or guardian has been
35 notified that if the minor remains out of their physical custody for
36 the period specified in Section 366.26, the minor may be declared
37 permanently free from their custody and control.

38 (3) The minor is suffering severe emotional damage, as indicated
39 by extreme anxiety, depression, withdrawal, or untoward aggressive
40 behavior toward himself or herself or others, and there are no

1 reasonable means by which the minor's emotional health may be
2 protected without removing the minor from the physical custody
3 of his or her parent or guardian.

4 (4) The minor or a sibling of the minor has been sexually abused,
5 or is deemed to be at substantial risk of being sexually abused, by
6 a parent, guardian, or member of his or her household, or other
7 person known to his or her parent, and there are no reasonable
8 means by which the minor can be protected from further sexual
9 abuse or a substantial risk of sexual abuse without removing the
10 minor from his or her parent or guardian, or the minor does not
11 wish to return to his or her parent or guardian.

12 (5) The minor has been left without any provision for his or her
13 support, or a parent who has been incarcerated or institutionalized
14 cannot arrange for the care of the minor, or a relative or other adult
15 custodian with whom the child has been left by the parent is
16 unwilling or unable to provide care or support for the child and
17 the whereabouts of the parent is unknown and reasonable efforts
18 to locate him or her have been unsuccessful.

19 (6) In an Indian child custody proceeding, continued custody
20 of the child by the parent or Indian custodian is likely to result in
21 serious emotional or physical damage to the child, and that finding
22 is supported by testimony of a "qualified expert witness" as
23 described in Section 224.6.

24 (A) Stipulation by the parent, Indian custodian, or the Indian
25 child's tribe, or failure to object, may waive the requirement of
26 producing evidence of the likelihood of serious damage only if the
27 court is satisfied that the party has been fully advised of the
28 requirements of the *federal* Indian Child Welfare Act (25 U.S.C.
29 Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily
30 waived them.

31 (B) Failure to meet non-Indian family and child-rearing
32 community standards, or the existence of other behavior or
33 conditions that meet the removal standards of this section, will not
34 support an order for placement in the absence of the finding in this
35 paragraph.

36 (d) The court shall make a determination as to whether
37 reasonable efforts were made to prevent or to eliminate the need
38 for removal of the minor from his or her home or, if the minor is
39 removed for one of the reasons stated in paragraph (5) of
40 subdivision (c), whether it was reasonable under the circumstances

1 not to make any of those efforts, or, in the case of an Indian child
2 custody proceeding, whether active efforts as required in Section
3 361.7 were made and that these efforts have proved unsuccessful.
4 The court shall state the facts on which the decision to remove the
5 minor is based.

6 (e) The court shall make all of the findings required by
7 subdivision (a) of Section 366 in either of the following
8 circumstances:

9 (1) The minor has been taken from the custody of his or her
10 parent or guardian and has been living in an out-of-home placement
11 pursuant to Section 319.

12 (2) The minor has been living in a voluntary out-of-home
13 placement pursuant to Section 16507.4.

14 SEC. 6. Section 361.2 of the Welfare and Institutions Code is
15 amended to read:

16 361.2. (a) When a court orders removal of a child pursuant to
17 Section 361, the court shall first determine whether there is a parent
18 of the child, with whom the child was not residing at the time that
19 the events or conditions arose that brought the child within the
20 provisions of Section 300, who desires to assume custody of the
21 child. If that parent requests custody, the court shall place the child
22 with the parent unless it finds that placement with that parent would
23 be detrimental to the safety, protection, or physical or emotional
24 well-being of the child.

25 (b) If the court places the child with that parent it may do any
26 of the following:

27 (1) Order that the parent become legal and physical custodian
28 of the child. The court may also provide reasonable visitation by
29 the noncustodial parent. The court shall then terminate its
30 jurisdiction over the child. The custody order shall continue unless
31 modified by a subsequent order of the superior court. The order
32 of the juvenile court shall be filed in any domestic relation
33 proceeding between the parents.

34 (2) Order that the parent assume custody subject to the
35 jurisdiction of the juvenile court and require that a home visit be
36 conducted within three months. In determining whether to take
37 the action described in this paragraph, the court shall consider any
38 concerns that have been raised by the child's current caregiver
39 regarding the parent. After the social worker conducts the home
40 visit and files his or her report with the court, the court may then

1 take the action described in paragraph (1), (3), or this paragraph.
2 However, nothing in this paragraph shall be interpreted to imply
3 that the court is required to take the action described in this
4 paragraph as a prerequisite to the court taking the action described
5 in either paragraph (1) or paragraph (3).

6 (3) Order that the parent assume custody subject to the
7 supervision of the juvenile court. In that case the court may order
8 that reunification services be provided to the parent or guardian
9 from whom the child is being removed, or the court may order that
10 services be provided solely to the parent who is assuming physical
11 custody in order to allow that parent to retain later custody without
12 court supervision, or that services be provided to both parents, in
13 which case the court shall determine, at review hearings held
14 pursuant to Section 366, which parent, if either, shall have custody
15 of the child.

16 (c) The court shall make a finding either in writing or on the
17 record of the basis for its determination under subdivisions (a) and
18 (b).

19 (d) Part 6 (commencing with Section 7950) of Division 12 of
20 the Family Code shall apply to the placement of a child pursuant
21 to paragraphs (1) and (2) of subdivision (e).

22 (e) When the court orders removal pursuant to Section 361, the
23 court shall order the care, custody, control, and conduct of the
24 child to be under the supervision of the social worker who may
25 place the child in any of the following:

26 (1) The home of a noncustodial parent as described in
27 subdivision (a).

28 (2) The approved home of a relative, *regardless of the relative's*
29 *immigration status*.

30 (3) The approved home of a nonrelative extended family
31 member as defined in Section 362.7.

32 (4) A foster home in which the child has been placed before an
33 interruption in foster care, if that placement is in the best interest
34 of the child and space is available.

35 (5) A suitable licensed community care facility.

36 (6) With a foster family agency to be placed in a suitable
37 licensed foster family home or certified family home which has
38 been certified by the agency as meeting licensing standards.

39 (7) A home or facility in accordance with the federal Indian
40 Child Welfare Act.

(8) A child under the age of six years may be placed in a community care facility licensed as a group home for children, or a temporary shelter care facility as defined in Section 1530.8 of the Health and Safety Code, only under any of the following circumstances:

(A) When a case plan indicates that placement is for purposes of providing specialized treatment to the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, and the facility meets the applicable regulations adopted under Section 1530.8 of the Health and Safety Code and standards developed pursuant to Section 11467.1. The specialized treatment period shall not exceed 120 days, unless additional time is needed pursuant to the case plan as documented by the caseworker and approved by the caseworker's supervisor.

(B) When a case plan indicates that placement is for purposes of providing family reunification services. In addition, the facility offers family reunification services that meet the needs of the individual child and his or her family, permits parents to have reasonable access to their children 24 hours a day, encourages extensive parental involvement in meeting the daily needs of their children, and employs staff trained to provide family reunification services. In addition, one of the following conditions exists:

(i) The child's parent is also a ward of the court and resides in the facility.

(ii) The child's parent is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.

(iii) Placement in the facility is the only alternative that permits the parent to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

(f) (1) If the child is taken from the physical custody of the child's parent or guardian and unless the child is placed with relatives, the child shall be placed in foster care in the county of residence of the child's parent or guardian in order to facilitate reunification of the family.

(2) In the event that there are no appropriate placements available in the parent's or guardian's county of residence, a placement may be made in an appropriate place in another county,

1 preferably a county located adjacent to the parent's or guardian's
2 community of residence.

3 (3) Nothing in this section shall be interpreted as requiring
4 multiple disruptions of the child's placement corresponding to
5 frequent changes of residence by the parent or guardian. In
6 determining whether the child should be moved, the social worker
7 shall take into consideration the potential harmful effects of
8 disrupting the placement of the child and the parent's or guardian's
9 reason for the move.

10 (4) When it has been determined that it is necessary for a child
11 to be placed in a county other than the child's parent's or guardian's
12 county of residence, the specific reason the out-of-county
13 placement is necessary shall be documented in the child's case
14 plan. If the reason the out-of-county placement is necessary is the
15 lack of resources in the sending county to meet the specific needs
16 of the child, those specific resource needs shall be documented in
17 the case plan.

18 (5) When it has been determined that a child is to be placed
19 out-of-county either in a group home or with a foster family agency
20 for subsequent placement in a certified foster family home, and
21 the sending county is to maintain responsibility for supervision
22 and visitation of the child, the sending county shall develop a plan
23 of supervision and visitation that specifies the supervision and
24 visitation activities to be performed and specifies that the sending
25 county is responsible for performing those activities. In addition
26 to the plan of supervision and visitation, the sending county shall
27 document information regarding any known or suspected dangerous
28 behavior of the child that indicates the child may pose a safety
29 concern in the receiving county. Upon implementation of the Child
30 Welfare Services Case Management System, the plan of
31 supervision and visitation, as well as information regarding any
32 known or suspected dangerous behavior of the child, shall be made
33 available to the receiving county upon placement of the child in
34 the receiving county. If placement occurs on a weekend or holiday,
35 the information shall be made available to the receiving county on
36 or before the end of the next business day.

37 (6) When it has been determined that a child is to be placed
38 out-of-county and the sending county plans that the receiving
39 county shall be responsible for the supervision and visitation of
40 the child, the sending county shall develop a formal agreement

1 between the sending and receiving counties. The formal agreement
2 shall specify the supervision and visitation to be provided the child,
3 and shall specify that the receiving county is responsible for
4 providing the supervision and visitation. The formal agreement
5 shall be approved and signed by the sending and receiving counties
6 prior to placement of the child in the receiving county. In addition,
7 upon completion of the case plan, the sending county shall provide
8 a copy of the completed case plan to the receiving county. The
9 case plan shall include information regarding any known or
10 suspected dangerous behavior of the child that indicates the child
11 may pose a safety concern to the receiving county.

12 (g) Whenever the social worker must change the placement of
13 the child and is unable to find a suitable placement within the
14 county and must place the child outside the county, the placement
15 shall not be made until he or she has served written notice on the
16 parent or guardian at least 14 days prior to the placement, unless
17 the child's health or well-being is endangered by delaying the
18 action or would be endangered if prior notice were given. The
19 notice shall state the reasons which require placement outside the
20 county. The parent or guardian may object to the placement not
21 later than seven days after receipt of the notice and, upon objection,
22 the court shall hold a hearing not later than five days after the
23 objection and prior to the placement. The court shall order
24 out-of-county placement if it finds that the child's particular needs
25 require placement outside the county.

26 (h) Where the court has ordered removal of the child from the
27 physical custody of his or her parents pursuant to Section 361, the
28 court shall consider whether the family ties and best interest of the
29 child will be served by granting visitation rights to the child's
30 grandparents. The court shall clearly specify those rights to the
31 social worker.

32 (i) Where the court has ordered removal of the child from the
33 physical custody of his or her parents pursuant to Section 361, the
34 court shall consider whether there are any siblings under the court's
35 jurisdiction, the nature of the relationship between the child and
36 his or her siblings, the appropriateness of developing or maintaining
37 the sibling relationships pursuant to Section 16002, and the impact
38 of the sibling relationships on the child's placement and planning
39 for legal permanence.

(j) (1) When an agency has placed a child with a relative caregiver, a nonrelative extended family member, a licensed foster family home, or a group home, the agency shall ensure placement of the child in a home that, to the fullest extent possible, best meets the day-to-day needs of the child. A home that best meets the day-to-day needs of the child shall satisfy all of the following criteria:

(A) The child's caregiver is able to meet the day-to-day health, safety, and well-being needs of the child.

(B) The child's caregiver is permitted to maintain the least restrictive and most family-like environment that serves the day-to-day needs of the child.

(C) The child is permitted to engage in reasonable, age-appropriate day-to-day activities that promote the most family-like environment for the foster child.

(2) The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, to determine day-to-day activities that are age-appropriate to meet the needs of the child. Nothing in this section shall be construed to permit a child's caregiver to permit the child to engage in day-to-day activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

SEC. 7. Section 361.3 of the Welfare and Institutions Code is amended to read:

361.3. (a) In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative, *regardless of the relative's immigration status*. In determining whether placement with a relative is appropriate, the county social worker and court shall consider, but shall not be limited to, consideration of all the following factors:

(1) The best interest of the child, including special physical, psychological, educational, medical, or emotional needs.

(2) The wishes of the parent, the relative, and child, if appropriate.

(3) The provisions of Part 6 (commencing with Section 7950) of Division 12 of the Family Code regarding relative placement.

1 (4) Placement of siblings and half siblings in the same home,
2 if that placement is found to be in the best interest of each of the
3 children as provided in Section 16002.

4 (5) The good moral character of the relative and any other adult
5 living in the home, including whether any individual residing in
6 the home has a prior history of violent criminal acts or has been
7 responsible for acts of child abuse or neglect.

8 (6) The nature and duration of the relationship between the child
9 and the relative, and the relative's desire to care for, and to provide
10 legal permanency for, the child if reunification is unsuccessful.

11 (7) The ability of the relative to do the following:

12 (A) Provide a safe, secure, and stable environment for the child.

13 (B) Exercise proper and effective care and control of the child.

14 (C) Provide a home and the necessities of life for the child.

15 (D) Protect the child from his or her parents.

16 (E) Facilitate court-ordered reunification efforts with the parents.

17 (F) Facilitate visitation with the child's other relatives.

18 (G) Facilitate implementation of all elements of the case plan.

19 (H) Provide legal permanence for the child if reunification fails.

20 However, any finding made with respect to the factor considered
21 pursuant to this subparagraph and pursuant to subparagraph (G)
22 shall not be the sole basis for precluding preferential placement
23 with a relative.

24 (I) Arrange for appropriate and safe child care, as necessary.

25 (8) The safety of the relative's home. For a relative to be
26 considered appropriate to receive placement of a child under this
27 section, the relative's home shall first be approved pursuant to the
28 process and standards described in subdivision (d) of Section 309.

29 In this regard, the Legislature declares that a physical disability,
30 such as blindness or deafness, is no bar to the raising of children,
31 and a county social worker's determination as to the ability of a
32 disabled relative to exercise care and control should center upon
33 whether the relative's disability prevents him or her from exercising
34 care and control. The court shall order the parent to disclose to the
35 county social worker the names, residences, and any other known
36 identifying information of any maternal or paternal relatives of
37 the child. This inquiry shall not be construed, however, to guarantee
38 that the child will be placed with any person so identified. The
39 county social worker shall initially contact the relatives given
40 preferential consideration for placement to determine if they desire

1 the child to be placed with them. Those desiring placement shall
2 be assessed according to the factors enumerated in this subdivision.
3 The county social worker shall document these efforts in the social
4 study prepared pursuant to Section 358.1. The court shall authorize
5 the county social worker, while assessing these relatives for the
6 possibility of placement, to disclose to the relative, as appropriate,
7 the fact that the child is in custody, the alleged reasons for the
8 custody, and the projected likely date for the child's return home
9 or placement for adoption or legal guardianship. However, this
10 investigation shall not be construed as good cause for continuance
11 of the dispositional hearing conducted pursuant to Section 358.

12 (b) In any case in which more than one appropriate relative
13 requests preferential consideration pursuant to this section, each
14 relative shall be considered under the factors enumerated in
15 subdivision (a).

16 (c) For purposes of this section:

17 (1) "Preferential consideration" means that the relative seeking
18 placement shall be the first placement to be considered and
19 investigated.

20 (2) "Relative" means an adult who is related to the child by
21 blood, adoption, or affinity within the fifth degree of kinship,
22 including stepparents, stepsiblings, and all relatives whose status
23 is preceded by the words "great," "great-great" or "grand" or the
24 spouse of any of these persons even if the marriage was terminated
25 by death or dissolution. However, only the following relatives
26 shall be given preferential consideration for the placement of the
27 child: an adult who is a grandparent, aunt, uncle, or sibling.

28 (d) Subsequent to the hearing conducted pursuant to Section
29 358, whenever a new placement of the child must be made,
30 consideration for placement shall again be given as described in
31 this section to relatives who have not been found to be unsuitable
32 and who will fulfill the child's reunification or permanent plan
33 requirements. In addition to the factors described in subdivision
34 (a), the county social worker shall consider whether the relative
35 has established and maintained a relationship with the child.

36 (e) If the court does not place the child with a relative who has
37 been considered for placement pursuant to this section, the court
38 shall state for the record the reasons placement with that relative
39 was denied.

(f) (1) With respect to a child who satisfies the criteria set forth in paragraph (2), the department and any licensed adoption agency may search for a relative and furnish identifying information relating to the child to that relative if it is believed the child's welfare will be promoted thereby.

(2) Paragraph (1) shall apply if both of the following conditions are satisfied:

(A) The child was previously a dependent of the court.

(B) The child was previously adopted and the adoption has been disrupted, set aside pursuant to Section 9100 or 9102 of the Family Code, or the child has been released into the custody of the department or a licensed adoption agency by the adoptive parent or parents.

(3) As used in this subdivision, "relative" includes a member of the child's birth family and nonrelated extended family members, regardless of whether the parental rights were terminated, provided that both of the following are true:

(A) No appropriate potential caretaker is known to exist from the child's adoptive family, including nonrelated extended family members of the adoptive family.

(B) The child was not the subject of a voluntary relinquishment by the birth parents pursuant to Section 8700 of the Family Code or Section 1255.7 of the Health and Safety Code.

SEC. 8. Section 361.4 of the Welfare and Institutions Code is amended to read:

361.4. (a) Prior to placing a child in the home of a relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent, the county social worker shall visit the home to ascertain the appropriateness of the placement.

(b) (1) Whenever a child may be placed in the home of a relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent, the court or county social worker placing the child shall cause a state-level criminal records check to be conducted by an appropriate government agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5. The criminal records check shall be conducted with regard to all persons over 18 years of age living in the home, and on any other person over 18 years of age, other than professionals providing professional services to the child, known to the placing entity who

1 may have significant contact with the child, including any person
2 who has a familial or intimate relationship with any person living
3 in the home. A criminal records check may be conducted pursuant
4 to this section on any person over 14 years of age living in the
5 home who the county social worker believes may have a criminal
6 record. Within 10 calendar days following the criminal records
7 check conducted through the California Law Enforcement
8 Telecommunications System, the social worker shall ensure that
9 a fingerprint clearance check of the relative and any other person
10 whose criminal record was obtained pursuant to this subdivision
11 is initiated through the Department of Justice to ensure the accuracy
12 of the criminal records check conducted through the California
13 Law Enforcement Telecommunications System and shall review
14 the results of any criminal records check to assess the safety of the
15 home. The Department of Justice shall forward fingerprint requests
16 for federal-level criminal history information to the Federal Bureau
17 of Investigation pursuant to this section.

18 (2) *An identification card from a foreign consulate or foreign*
19 *passport shall be considered a valid form of identification for*
20 *conducting a criminal record check and fingerprint clearance*
21 *check under this subdivision and under subdivision (c).*

22 (c) Whenever a child may be placed in the home of a relative,
23 or a prospective guardian or other person who is not a licensed or
24 certified foster parent, the county social worker shall cause a check
25 of the Child Abuse Central Index pursuant to subdivision (a) of
26 Section 11170 of the Penal Code to be requested from the
27 Department of Justice. The Child Abuse Central Index check shall
28 be conducted on all persons over 18 years of age living in the
29 home. For any application received on or after January 1, 2008, if
30 any person in the household is 18 years of age or older and has
31 lived in another state in the preceding five years, the county social
32 worker shall check the other state's child abuse and neglect registry
33 to the extent required by federal law.

34 (d) (1) If the results of the California and federal criminal
35 records check indicates that the person has no criminal record, the
36 county social worker and court may consider the home of the
37 relative, prospective guardian, or other person who is not a licensed
38 or certified foster parent for placement of a child.

39 (2) If the criminal records check indicates that the person has
40 been convicted of a crime that the Director of Social Services

1 cannot grant an exemption for under Section 1522 of the Health
2 and Safety Code, the child shall not be placed in the home. If the
3 criminal records check indicates that the person has been convicted
4 of a crime that the Director of Social Services may grant an
5 exemption for under Section 1522 of the Health and Safety Code,
6 the child shall not be placed in the home unless a criminal records
7 exemption has been granted by the county, based on substantial
8 and convincing evidence to support a reasonable belief that the
9 person with the criminal conviction is of such good character as
10 to justify the placement and not present a risk of harm to the child
11 pursuant to paragraph (3).

12 (3) (A) A county may issue a criminal records exemption only
13 if that county has been granted permission by the Director of Social
14 Services to issue criminal records exemptions. The county may
15 file a request with the Director of Social Services seeking
16 permission for the county to establish a procedure to evaluate and
17 grant appropriate individual criminal records exemptions for
18 persons described in subdivision (b). The director shall grant or
19 deny the county's request within 14 days of receipt. The county
20 shall evaluate individual criminal records in accordance with the
21 standards and limitations set forth in paragraph (1) of subdivision
22 (g) of Section 1522 of the Health and Safety Code, and in no event
23 shall the county place a child in the home of a person who is
24 ineligible for an exemption under that provision.

25 (B) The department shall monitor county implementation of the
26 authority to grant an exemption under this paragraph to ensure that
27 the county evaluates individual criminal records and allows or
28 disallows placements according to the standards set forth in
29 paragraph (1) of subdivision (g) of Section 1522 of the Health and
30 Safety Code.

31 (4) The department shall conduct an evaluation of the
32 implementation of paragraph (3) through random sampling of
33 county exemption decisions.

34 (5) The State Department of Social Services shall not evaluate
35 or grant criminal records exemption requests for persons described
36 in subdivision (b), unless the exemption request is made by an
37 Indian tribe pursuant to subdivision (f).

38 (6) If a county has not requested, or has not been granted,
39 permission by the State Department of Social Services to establish
40 a procedure to evaluate and grant criminal records exemptions,

1 the county shall not place a child into the home of a person
2 described in subdivision (b) if any person residing in the home has
3 been convicted of a crime other than a minor traffic violation,
4 except as provided in subdivision (f).

5 (e) Nothing in this section shall preclude a county from
6 conducting a criminal background check that the county is
7 otherwise authorized to conduct using fingerprints.

8 (f) Upon request from an Indian tribe, the State Department of
9 Social Services shall evaluate an exemption request, if needed, to
10 allow placement into an Indian home that the tribe has designated
11 for placement under the *federal* Indian Child Welfare Act (25
12 U.S.C. Sec. 1901 et seq.) that would otherwise be barred under
13 this section. However, if the county with jurisdiction over the child
14 that is the subject of the tribe's request has established an approved
15 procedure pursuant to paragraph (3) of subdivision (d), the tribe
16 may request that the county evaluate the exemption request. Once
17 a tribe has elected to have the exemption request reviewed by either
18 the State Department of Social Services or the county, the
19 exemption decision may only be made by that entity. Nothing in
20 this subdivision limits the duty of a county social worker to
21 evaluate the home for placement or to gather information needed
22 to evaluate an exemption request.

23 SEC. 9. Section 361.5 of the Welfare and Institutions Code,
24 as amended by Section 1 of Chapter 59 of the Statutes of 2011, is
25 amended to read:

26 361.5. (a) Except as provided in subdivision (b), or when the
27 parent has voluntarily relinquished the child and the relinquishment
28 has been filed with the State Department of Social Services, or
29 upon the establishment of an order of guardianship pursuant to
30 Section 360, whenever a child is removed from a parent's or
31 guardian's custody, the juvenile court shall order the social worker
32 to provide child welfare services to the child and the child's mother
33 and statutorily presumed father or guardians. Upon a finding and
34 declaration of paternity by the juvenile court or proof of a prior
35 declaration of paternity by any court of competent jurisdiction, the
36 juvenile court may order services for the child and the biological
37 father, if the court determines that the services will benefit the
38 child.

39 (1) Family reunification services, when provided, shall be
40 provided as follows:

1 (A) Except as otherwise provided in subparagraph (C), for a
2 child who, on the date of initial removal from the physical custody
3 of his or her parent or guardian, was three years of age or older,
4 court-ordered services shall be provided beginning with the
5 dispositional hearing and ending 12 months after the date the child
6 entered foster care as defined in Section 361.49, unless the child
7 is returned to the home of the parent or guardian.

8 (B) For a child who, on the date of initial removal from the
9 physical custody of his or her parent or guardian, was under three
10 years of age, court-ordered services shall be provided for a period
11 of six months from the dispositional hearing as provided in
12 subdivision (e) of Section 366.21, but no longer than 12 months
13 from the date the child entered foster care as defined in Section
14 361.49 unless the child is returned to the home of the parent or
15 guardian.

16 (C) For the purpose of placing and maintaining a sibling group
17 together in a permanent home should reunification efforts fail, for
18 a child in a sibling group whose members were removed from
19 parental custody at the same time, and in which one member of
20 the sibling group was under three years of age on the date of initial
21 removal from the physical custody of his or her parent or guardian,
22 court-ordered services for some or all of the sibling group may be
23 limited as set forth in subparagraph (B). For the purposes of this
24 paragraph, “a sibling group” shall mean two or more children who
25 are related to each other as full or half siblings.

26 (2) Any motion to terminate court-ordered reunification services
27 prior to the hearing set pursuant to subdivision (f) of Section 366.21
28 for a child described by subparagraph (A) of paragraph (1), or
29 prior to the hearing set pursuant to subdivision (e) of Section
30 366.21 for a child described by subparagraph (B) or (C) of
31 paragraph (1), shall be made pursuant to the requirements set forth
32 in subdivision (c) of Section 388. A motion to terminate
33 court-ordered reunification services shall not be required at the
34 hearing set pursuant to subdivision (e) of Section 366.21 if the
35 court finds by clear and convincing evidence one of the following:

36 (A) That the child was removed initially under subdivision (g)
37 of Section 300 and the whereabouts of the parent are still unknown.

38 (B) That the parent has failed to contact and visit the child.

39 (C) That the parent has been convicted of a felony indicating
40 parental unfitness.

(3) Notwithstanding subparagraphs (A), (B), and (C) of paragraph (1), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. In determining whether court-ordered services may be extended, the court shall consider the special circumstances of an incarcerated or institutionalized parent or parents, ~~or~~ parent or parents court-ordered to a residential substance abuse treatment program, *or a parent who has been arrested and issued an immigration hold, detained by the United States Immigration and Customs Enforcement, or deported to his or her country of origin*, including, but not limited to, barriers to the parent's or guardian's access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child, or unless a parent or guardian is incarcerated *or detained by the United States Immigration and Customs Enforcement* and the corrections facility in which he or she is incarcerated does not provide access to the treatment services ordered by the court, *or has been deported to his or her country of origin and that country does not provide the services ordered by the court*. Physical custody of the child by

1 the parents or guardians during the applicable time period under
2 subparagraph (A), (B), or (C) of paragraph (1) shall not serve to
3 interrupt the running of the period. If at the end of the applicable
4 time period, a child cannot be safely returned to the care and
5 custody of a parent or guardian without court supervision, but the
6 child clearly desires contact with the parent or guardian, the court
7 shall take the child's desire into account in devising a permanency
8 plan.

9 In cases where the child was under three years of age on the date
10 of the initial removal from the physical custody of his or her parent
11 or guardian or is a member of a sibling group as described in
12 subparagraph (C) of paragraph (1), the court shall inform the parent
13 or guardian that the failure of the parent or guardian to participate
14 regularly in any court-ordered treatment programs or to cooperate
15 or avail himself or herself of services provided as part of the child
16 welfare services case plan may result in a termination of efforts
17 to reunify the family after six months. The court shall inform the
18 parent or guardian of the factors used in subdivision (e) of Section
19 366.21 to determine whether to limit services to six months for
20 some or all members of a sibling group as described in
21 subparagraph (C) of paragraph (1).

22 (4) Notwithstanding paragraph (3), court-ordered services may
23 be extended up to a maximum time period not to exceed 24 months
24 after the date the child was originally removed from physical
25 custody of his or her parent or guardian if it is shown, at the hearing
26 held pursuant to subdivision (b) of Section 366.22, that the
27 permanent plan for the child is that he or she will be returned and
28 safely maintained in the home within the extended time period.
29 The court shall extend the time period only if it finds that it is in
30 the child's best interest to have the time period extended and that
31 there is a substantial probability that the child will be returned to
32 the physical custody of his or her parent or guardian who is
33 described in subdivision (b) of Section 366.22 within the extended
34 time period, or that reasonable services have not been provided to
35 the parent or guardian. If the court extends the time period, the
36 court shall specify the factual basis for its conclusion that there is
37 a substantial probability that the child will be returned to the
38 physical custody of his or her parent or guardian within the
39 extended time period. The court also shall make findings pursuant

1 to subdivision (a) of Section 366 and subdivision (e) of Section
2 358.1.

3 When counseling or other treatment services are ordered, the
4 parent or guardian shall be ordered to participate in those services,
5 in order for substantial probability to be found. Physical custody
6 of the child by the parents or guardians during the applicable time
7 period under subparagraph (A), (B), or (C) of paragraph (1) shall
8 not serve to interrupt the running of the period. If at the end of the
9 applicable time period, the child cannot be safely returned to the
10 care and custody of a parent or guardian without court supervision,
11 but the child clearly desires contact with the parent or guardian,
12 the court shall take the child's desire into account in devising a
13 permanency plan.

14 Except in cases where, pursuant to subdivision (b), the court
15 does not order reunification services, the court shall inform the
16 parent or parents of Section 366.26 and shall specify that the
17 parent's or parents' parental rights may be terminated.

18 (b) Reunification services need not be provided to a parent or
19 guardian described in this subdivision when the court finds, by
20 clear and convincing evidence, any of the following:

21 (1) That the whereabouts of the parent or guardian is unknown.
22 A finding pursuant to this paragraph shall be supported by an
23 affidavit or by proof that a reasonably diligent search has failed
24 to locate the parent or guardian. The posting or publication of
25 notices is not required in that search.

26 (2) That the parent or guardian is suffering from a mental
27 disability that is described in Chapter 2 (commencing with Section
28 7820) of Part 4 of Division 12 of the Family Code and that renders
29 him or her incapable of utilizing those services.

30 (3) That the child or a sibling of the child has been previously
31 adjudicated a dependent pursuant to any subdivision of Section
32 300 as a result of physical or sexual abuse, that following that
33 adjudication the child had been removed from the custody of his
34 or her parent or guardian pursuant to Section 361, that the child
35 has been returned to the custody of the parent or guardian from
36 whom the child had been taken originally, and that the child is
37 being removed pursuant to Section 361, due to additional physical
38 or sexual abuse.

39 (4) That the parent or guardian of the child has caused the death
40 of another child through abuse or neglect.

1 (5) That the child was brought within the jurisdiction of the
2 court under subdivision (e) of Section 300 because of the conduct
3 of that parent or guardian.

4 (6) That the child has been adjudicated a dependent pursuant
5 to any subdivision of Section 300 as a result of severe sexual abuse
6 or the infliction of severe physical harm to the child, a sibling, or
7 a half sibling by a parent or guardian, as defined in this subdivision,
8 and the court makes a factual finding that it would not benefit the
9 child to pursue reunification services with the offending parent or
10 guardian.

11 A finding of severe sexual abuse, for the purposes of this
12 subdivision, may be based on, but is not limited to, sexual
13 intercourse, or stimulation involving genital-genital, oral-genital,
14 anal-genital, or oral-anal contact, whether between the parent or
15 guardian and the child or a sibling or half sibling of the child, or
16 between the child or a sibling or half sibling of the child and
17 another person or animal with the actual or implied consent of the
18 parent or guardian; or the penetration or manipulation of the
19 child's, sibling's, or half sibling's genital organs or rectum by any
20 animate or inanimate object for the sexual gratification of the
21 parent or guardian, or for the sexual gratification of another person
22 with the actual or implied consent of the parent or guardian.

23 A finding of the infliction of severe physical harm, for the
24 purposes of this subdivision, may be based on, but is not limited
25 to, deliberate and serious injury inflicted to or on a child's body
26 or the body of a sibling or half sibling of the child by an act or
27 omission of the parent or guardian, or of another individual or
28 animal with the consent of the parent or guardian; deliberate and
29 torturous confinement of the child, sibling, or half sibling in a
30 closed space; or any other torturous act or omission that would be
31 reasonably understood to cause serious emotional damage.

32 (7) That the parent is not receiving reunification services for a
33 sibling or a half sibling of the child pursuant to paragraph (3), (5),
34 or (6).

35 (8) That the child was conceived by means of the commission
36 of an offense listed in Section 288 or 288.5 of the Penal Code, or
37 by an act committed outside of this state that, if committed in this
38 state, would constitute one of those offenses. This paragraph only
39 applies to the parent who committed the offense or act.

1 (9) That the child has been found to be a child described in
2 subdivision (g) of Section 300; that the parent or guardian of the
3 child willfully abandoned the child, and the court finds that the
4 abandonment itself constituted a serious danger to the child; or
5 that the parent or other person having custody of the child
6 voluntarily surrendered physical custody of the child pursuant to
7 Section 1255.7 of the Health and Safety Code. For the purposes
8 of this paragraph, “serious danger” means that without the
9 intervention of another person or agency, the child would have
10 sustained severe or permanent disability, injury, illness, or death.
11 For purposes of this paragraph, “willful abandonment” shall not
12 be construed as actions taken in good faith by the parent without
13 the intent of placing the child in serious danger.

14 (10) That the court ordered termination of reunification services
15 for any siblings or half siblings of the child because the parent or
16 guardian failed to reunify with the sibling or half sibling after the
17 sibling or half sibling had been removed from that parent or
18 guardian pursuant to Section 361 and that parent or guardian is
19 the same parent or guardian described in subdivision (a) and that,
20 according to the findings of the court, this parent or guardian has
21 not subsequently made a reasonable effort to treat the problems
22 that led to removal of the sibling or half sibling of that child from
23 that parent or guardian.

24 (11) That the parental rights of a parent over any sibling or half
25 sibling of the child had been permanently severed, and this parent
26 is the same parent described in subdivision (a), and that, according
27 to the findings of the court, this parent has not subsequently made
28 a reasonable effort to treat the problems that led to removal of the
29 sibling or half sibling of that child from the parent.

30 (12) That the parent or guardian of the child has been convicted
31 of a violent felony, as defined in subdivision (c) of Section 667.5
32 of the Penal Code.

33 (13) That the parent or guardian of the child has a history of
34 extensive, abusive, and chronic use of drugs or alcohol and has
35 resisted prior court-ordered treatment for this problem during a
36 three-year period immediately prior to the filing of the petition
37 that brought that child to the court’s attention, or has failed or
38 refused to comply with a program of drug or alcohol treatment
39 described in the case plan required by Section 358.1 on at least

1 two prior occasions, even though the programs identified were
2 available and accessible.

3 (14) That the parent or guardian of the child has advised the
4 court that he or she is not interested in receiving family
5 maintenance or family reunification services or having the child
6 returned to or placed in his or her custody and does not wish to
7 receive family maintenance or reunification services.

8 The parent or guardian shall be represented by counsel and shall
9 execute a waiver of services form to be adopted by the Judicial
10 Council. The court shall advise the parent or guardian of any right
11 to services and of the possible consequences of a waiver of
12 services, including the termination of parental rights and placement
13 of the child for adoption. The court shall not accept the waiver of
14 services unless it states on the record its finding that the parent or
15 guardian has knowingly and intelligently waived the right to
16 services.

17 (15) That the parent or guardian has on one or more occasions
18 willfully abducted the child or child's sibling or half sibling from
19 his or her placement and refused to disclose the child's or child's
20 sibling's or half sibling's whereabouts, refused to return physical
21 custody of the child or child's sibling or half sibling to his or her
22 placement, or refused to return physical custody of the child or
23 child's sibling or half sibling to the social worker.

24 (c) In deciding whether to order reunification in any case in
25 which this section applies, the court shall hold a dispositional
26 hearing. The social worker shall prepare a report that discusses
27 whether reunification services shall be provided. When it is alleged,
28 pursuant to paragraph (2) of subdivision (b), that the parent is
29 incapable of utilizing services due to mental disability, the court
30 shall order reunification services unless competent evidence from
31 mental health professionals establishes that, even with the provision
32 of services, the parent is unlikely to be capable of adequately caring
33 for the child within the time limits specified in subdivision (a).

34 The court shall not order reunification for a parent or guardian
35 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
36 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
37 and convincing evidence, that reunification is in the best interest
38 of the child.

39 In addition, the court shall not order reunification in any situation
40 described in paragraph (5) of subdivision (b) unless it finds that,

1 based on competent testimony, those services are likely to prevent
2 reabuse or continued neglect of the child or that failure to try
3 reunification will be detrimental to the child because the child is
4 closely and positively attached to that parent. The social worker
5 shall investigate the circumstances leading to the removal of the
6 child and advise the court whether there are circumstances that
7 indicate that reunification is likely to be successful or unsuccessful
8 and whether failure to order reunification is likely to be detrimental
9 to the child.

10 The failure of the parent to respond to previous services, the fact
11 that the child was abused while the parent was under the influence
12 of drugs or alcohol, a past history of violent behavior, or testimony
13 by a competent professional that the parent's behavior is unlikely
14 to be changed by services are among the factors indicating that
15 reunification services are unlikely to be successful. The fact that
16 a parent or guardian is no longer living with an individual who
17 severely abused the child may be considered in deciding that
18 reunification services are likely to be successful, provided that the
19 court shall consider any pattern of behavior on the part of the parent
20 that has exposed the child to repeated abuse.

21 (d) If reunification services are not ordered pursuant to
22 paragraph (1) of subdivision (b) and the whereabouts of a parent
23 become known within six months of the out-of-home placement
24 of the child, the court shall order the social worker to provide
25 family reunification services in accordance with this subdivision.

26 (e) (1) If the parent or guardian is incarcerated—~~or,~~
27 institutionalized, *or detained by the United States Immigration*
28 *and Customs Enforcement, or has been deported to his or her*
29 *country of origin*, the court shall order reasonable services unless
30 the court determines, by clear and convincing evidence, those
31 services would be detrimental to the child. In determining
32 detriment, the court shall consider the age of the child, the degree
33 of parent-child bonding, the length of the sentence, the length and
34 nature of the treatment, the nature of the crime or illness, the degree
35 of detriment to the child if services are not offered and, for children
36 10 years of age or older, the child's attitude toward the
37 implementation of family reunification services, the likelihood of
38 the parent's discharge from incarceration—~~or,~~ institutionalization,
39 *or detention, or the likelihood of the parent's return to the United*
40 *States* within the reunification time limitations described in

subdivision (a), and any other appropriate factors. In determining the content of reasonable services, the court shall consider the particular barriers to an incarcerated ~~or otherwise~~, institutionalized, *detained, or deported* parent's access to those court-mandated services and ability to maintain contact with his or her child, and shall document this information in the child's case plan. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between the parent and child through collect telephone calls.

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

(D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

An incarcerated *or detained* parent may be required to attend counseling, parenting classes, or vocational training programs as part of the reunification service plan if actual access to these services is provided. The social worker shall document in the child's case plan the particular barriers to an incarcerated ~~or~~, institutionalized, *or detained* parent's access to those court-mandated services and ability to maintain contact with his or her child.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the child pursuant to Section 2625 of the Penal Code. The county welfare department shall utilize the prisoner locator system developed by the Department of Corrections and Rehabilitation to facilitate timely and effective notice of hearings for incarcerated parents.

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections and Rehabilitation pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, *or* Chapter

1 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal
2 Code, the court shall determine whether the parent's participation
3 in a program is in the child's best interest and whether it is suitable
4 to meet the needs of the parent and child.

5 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
6 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
7 paragraph (1) of subdivision (e), does not order reunification
8 services, it shall, at the dispositional hearing, that shall include a
9 permanency hearing, determine if a hearing under Section 366.26
10 shall be set in order to determine whether adoption, guardianship,
11 or long-term foster care, or in the case of an Indian child, in
12 consultation with the child's tribe, tribal customary adoption, is
13 the most appropriate plan for the child, and shall consider in-state
14 and out-of-state placement options. If the court so determines, it
15 shall conduct the hearing pursuant to Section 366.26 within 120
16 days after the dispositional hearing. However, the court shall not
17 schedule a hearing so long as the other parent is being provided
18 reunification services pursuant to subdivision (a). The court may
19 continue to permit the parent to visit the child unless it finds that
20 visitation would be detrimental to the child.

21 (g) (1) Whenever a court orders that a hearing shall be held
22 pursuant to Section 366.26, including, when, in consultation with
23 the child's tribe, tribal customary adoption is recommended, it
24 shall direct the agency supervising the child and the licensed county
25 adoption agency, or the State Department of Social Services when
26 it is acting as an adoption agency in counties that are not served
27 by a county adoption agency, to prepare an assessment that shall
28 include:

29 (A) Current search efforts for an absent parent or parents and
30 notification of a noncustodial parent in the manner provided for
31 in Section 291.

32 (B) A review of the amount of and nature of any contact between
33 the child and his or her parents and other members of his or her
34 extended family since the time of placement. Although the
35 extended family of each child shall be reviewed on a case-by-case
36 basis, "extended family" for the purpose of this subparagraph shall
37 include, but not be limited to, the child's siblings, grandparents,
38 aunts, and uncles.

39 (C) An evaluation of the child's medical, developmental,
40 scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. As used in this subparagraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(E) The relationship of the child to any identified prospective adoptive parent or guardian, including a prospective tribal customary parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child over 12 years of age has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a customary tribal adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

1 (i) Whether tribal customary adoption would or would not be
2 detrimental to the Indian child and the reasons for reaching that
3 conclusion.

4 (ii) Whether the Indian child cannot or should not be returned
5 to the home of the Indian parent or Indian custodian and the reasons
6 for reaching that conclusion.

7 (2) (A) A relative caregiver's preference for legal guardianship
8 over adoption, if it is due to circumstances that do not include an
9 unwillingness to accept legal or financial responsibility for the
10 child, shall not constitute the sole basis for recommending removal
11 of the child from the relative caregiver for purposes of adoptive
12 placement.

13 (B) ~~A~~ *Regardless of his or her immigration status, a* relative
14 caregiver shall be given information regarding the permanency
15 options of guardianship and adoption, including the long-term
16 benefits and consequences of each option, prior to establishing
17 legal guardianship or pursuing adoption.

18 (h) If, at any hearing held pursuant to Section 366.26, a
19 guardianship is established for the minor with an approved relative
20 caregiver and juvenile court dependency is subsequently dismissed,
21 the minor shall be eligible for aid under the Kin-GAP Program as
22 provided for in Article 4.5 (commencing with Section 11360) or
23 Article 4.7 (commencing with Section 11385) of Chapter 2, as
24 applicable.

25 (i) In determining whether reunification services will benefit
26 the child pursuant to paragraph (6) or (7) of subdivision (b), the
27 court shall consider any information it deems relevant, including
28 the following factors:

29 (1) The specific act or omission comprising the severe sexual
30 abuse or the severe physical harm inflicted on the child or the
31 child's sibling or half sibling.

32 (2) The circumstances under which the abuse or harm was
33 inflicted on the child or the child's sibling or half sibling.

34 (3) The severity of the emotional trauma suffered by the child
35 or the child's sibling or half sibling.

36 (4) Any history of abuse of other children by the offending
37 parent or guardian.

38 (5) The likelihood that the child may be safely returned to the
39 care of the offending parent or guardian within 12 months with no
40 continuing supervision.

1 (6) Whether or not the child desires to be reunified with the
2 offending parent or guardian.

3 (j) When the court determines that reunification services will
4 not be ordered, it shall order that the child's caregiver receive the
5 child's birth certificate in accordance with Sections 16010.4 and
6 16010.5. Additionally, when the court determines that reunification
7 services will not be ordered, it shall order, when appropriate, that
8 a child who is 16 years of age or older receive his or her birth
9 certificate.

10 (k) The court shall read into the record the basis for a finding
11 of severe sexual abuse or the infliction of severe physical harm
12 under paragraph (6) of subdivision (b), and shall also specify the
13 factual findings used to determine that the provision of
14 reunification services to the offending parent or guardian would
15 not benefit the child.

16 (l) This section shall remain in effect only until January 1, 2014,
17 and as of that date is repealed, unless a later enacted statute, that
18 is enacted before January 1, 2014, deletes or extends that date.

19 SEC. 10. Section 361.5 of the Welfare and Institutions Code,
20 as amended by Section 2 of Chapter 59 of the Statutes of 2011, is
21 amended to read:

22 361.5. (a) Except as provided in subdivision (b), or when the
23 parent has voluntarily relinquished the child and the relinquishment
24 has been filed with the State Department of Social Services, or
25 upon the establishment of an order of guardianship pursuant to
26 Section 360, whenever a child is removed from a parent's or
27 guardian's custody, the juvenile court shall order the social worker
28 to provide child welfare services to the child and the child's mother
29 and statutorily presumed father or guardians. Upon a finding and
30 declaration of paternity by the juvenile court or proof of a prior
31 declaration of paternity by any court of competent jurisdiction, the
32 juvenile court may order services for the child and the biological
33 father, if the court determines that the services will benefit the
34 child.

35 (1) Family reunification services, when provided, shall be
36 provided as follows:

37 (A) Except as otherwise provided in subparagraph (C), for a
38 child who, on the date of initial removal from the physical custody
39 of his or her parent or guardian, was three years of age or older,
40 court-ordered services shall be provided beginning with the

1 dispositional hearing and ending 12 months after the date the child
2 entered foster care as defined in Section 361.49, unless the child
3 is returned to the home of the parent or guardian.

4 (B) For a child who, on the date of initial removal from the
5 physical custody of his or her parent or guardian, was under three
6 years of age, court-ordered services shall be provided for a period
7 of six months from the dispositional hearing as provided in
8 subdivision (e) of Section 366.21, but no longer than 12 months
9 from the date the child entered foster care as defined in Section
10 361.49 unless the child is returned to the home of the parent or
11 guardian.

12 (C) For the purpose of placing and maintaining a sibling group
13 together in a permanent home should reunification efforts fail, for
14 a child in a sibling group whose members were removed from
15 parental custody at the same time, and in which one member of
16 the sibling group was under three years of age on the date of initial
17 removal from the physical custody of his or her parent or guardian,
18 court-ordered services for some or all of the sibling group may be
19 limited as set forth in subparagraph (B). For the purposes of this
20 paragraph, “a sibling group” shall mean two or more children who
21 are related to each other as full or half siblings.

22 (2) Any motion to terminate court-ordered reunification services
23 prior to the hearing set pursuant to subdivision (f) of Section 366.21
24 for a child described by subparagraph (A) of paragraph (1), or
25 prior to the hearing set pursuant to subdivision (e) of Section
26 366.21 for a child described by subparagraph (B) or (C) of
27 paragraph (1), shall be made pursuant to the requirements set forth
28 in subdivision (c) of Section 388. A motion to terminate
29 court-ordered reunification services shall not be required at the
30 hearing set pursuant to subdivision (e) of Section 366.21 if the
31 court finds by clear and convincing evidence one of the following:

32 (A) That the child was removed initially under subdivision (g)
33 of Section 300 and the whereabouts of the parent are still unknown.

34 (B) That the parent has failed to contact and visit the child.

35 (C) That the parent has been convicted of a felony indicating
36 parental unfitness.

37 (3) Notwithstanding subparagraphs (A), (B), and (C) of
38 paragraph (1), court-ordered services may be extended up to a
39 maximum time period not to exceed 18 months after the date the
40 child was originally removed from physical custody of his or her

parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. In determining whether court-ordered services may be extended, the court shall consider the special circumstances of an incarcerated or institutionalized parent or parents, ~~or~~ parent or parents court-ordered to a residential substance abuse treatment program, *or a parent who has been arrested and issued an immigration hold, detained by the United States Immigration and Customs Enforcement, or deported to his or her country of origin*, including, but not limited to, barriers to the parent's or guardian's access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child, or unless a parent or guardian is incarcerated *or detained by the United States Immigration and Customs Enforcement* and the corrections facility in which he or she is incarcerated does not provide access to the treatment services ordered by the court, *or has been deported to his or her country of origin and that country does not provide the services ordered by the court*. Physical custody of the child by the parents or guardians during the applicable time period under subparagraph (A), (B), or (C) of paragraph (1) shall not serve to interrupt the running of the period. If at the end of the applicable time period, a child cannot be safely returned to the care and

1 custody of a parent or guardian without court supervision, but the
2 child clearly desires contact with the parent or guardian, the court
3 shall take the child's desire into account in devising a permanency
4 plan.

5 In cases where the child was under three years of age on the date
6 of the initial removal from the physical custody of his or her parent
7 or guardian or is a member of a sibling group as described in
8 subparagraph (C) of paragraph (1), the court shall inform the parent
9 or guardian that the failure of the parent or guardian to participate
10 regularly in any court-ordered treatment programs or to cooperate
11 or avail himself or herself of services provided as part of the child
12 welfare services case plan may result in a termination of efforts
13 to reunify the family after six months. The court shall inform the
14 parent or guardian of the factors used in subdivision (e) of Section
15 366.21 to determine whether to limit services to six months for
16 some or all members of a sibling group as described in
17 subparagraph (C) of paragraph (1).

18 (4) Notwithstanding paragraph (3), court-ordered services may
19 be extended up to a maximum time period not to exceed 24 months
20 after the date the child was originally removed from physical
21 custody of his or her parent or guardian if it is shown, at the hearing
22 held pursuant to subdivision (b) of Section 366.22, that the
23 permanent plan for the child is that he or she will be returned and
24 safely maintained in the home within the extended time period.
25 The court shall extend the time period only if it finds that it is in
26 the child's best interest to have the time period extended and that
27 there is a substantial probability that the child will be returned to
28 the physical custody of his or her parent or guardian who is
29 described in subdivision (b) of Section 366.22 within the extended
30 time period, or that reasonable services have not been provided to
31 the parent or guardian. If the court extends the time period, the
32 court shall specify the factual basis for its conclusion that there is
33 a substantial probability that the child will be returned to the
34 physical custody of his or her parent or guardian within the
35 extended time period. The court also shall make findings pursuant
36 to subdivision (a) of Section 366 and subdivision (e) of Section
37 358.1.

38 When counseling or other treatment services are ordered, the
39 parent or guardian shall be ordered to participate in those services,
40 in order for substantial probability to be found. Physical custody

1 of the child by the parents or guardians during the applicable time
2 period under subparagraph (A), (B), or (C) of paragraph (1) shall
3 not serve to interrupt the running of the period. If at the end of the
4 applicable time period, the child cannot be safely returned to the
5 care and custody of a parent or guardian without court supervision,
6 but the child clearly desires contact with the parent or guardian,
7 the court shall take the child's desire into account in devising a
8 permanency plan.

9 Except in cases where, pursuant to subdivision (b), the court
10 does not order reunification services, the court shall inform the
11 parent or parents of Section 366.26 and shall specify that the
12 parent's or parents' parental rights may be terminated.

13 (b) Reunification services need not be provided to a parent or
14 guardian described in this subdivision when the court finds, by
15 clear and convincing evidence, any of the following:

16 (1) That the whereabouts of the parent or guardian is unknown.
17 A finding pursuant to this paragraph shall be supported by an
18 affidavit or by proof that a reasonably diligent search has failed
19 to locate the parent or guardian. The posting or publication of
20 notices is not required in that search.

21 (2) That the parent or guardian is suffering from a mental
22 disability that is described in Chapter 2 (commencing with Section
23 7820) of Part 4 of Division 12 of the Family Code and that renders
24 him or her incapable of utilizing those services.

25 (3) That the child or a sibling of the child has been previously
26 adjudicated a dependent pursuant to any subdivision of Section
27 300 as a result of physical or sexual abuse, that following that
28 adjudication the child had been removed from the custody of his
29 or her parent or guardian pursuant to Section 361, that the child
30 has been returned to the custody of the parent or guardian from
31 whom the child had been taken originally, and that the child is
32 being removed pursuant to Section 361, due to additional physical
33 or sexual abuse.

34 (4) That the parent or guardian of the child has caused the death
35 of another child through abuse or neglect.

36 (5) That the child was brought within the jurisdiction of the
37 court under subdivision (e) of Section 300 because of the conduct
38 of that parent or guardian.

39 (6) That the child has been adjudicated a dependent pursuant
40 to any subdivision of Section 300 as a result of severe sexual abuse

1 or the infliction of severe physical harm to the child, a sibling, or
2 a half sibling by a parent or guardian, as defined in this subdivision,
3 and the court makes a factual finding that it would not benefit the
4 child to pursue reunification services with the offending parent or
5 guardian.

6 A finding of severe sexual abuse, for the purposes of this
7 subdivision, may be based on, but is not limited to, sexual
8 intercourse, or stimulation involving genital-genital, oral-genital,
9 anal-genital, or oral-anal contact, whether between the parent or
10 guardian and the child or a sibling or half sibling of the child, or
11 between the child or a sibling or half sibling of the child and
12 another person or animal with the actual or implied consent of the
13 parent or guardian; or the penetration or manipulation of the
14 child's, sibling's, or half sibling's genital organs or rectum by any
15 animate or inanimate object for the sexual gratification of the
16 parent or guardian, or for the sexual gratification of another person
17 with the actual or implied consent of the parent or guardian.

18 A finding of the infliction of severe physical harm, for the
19 purposes of this subdivision, may be based on, but is not limited
20 to, deliberate and serious injury inflicted to or on a child's body
21 or the body of a sibling or half sibling of the child by an act or
22 omission of the parent or guardian, or of another individual or
23 animal with the consent of the parent or guardian; deliberate and
24 torturous confinement of the child, sibling, or half sibling in a
25 closed space; or any other torturous act or omission that would be
26 reasonably understood to cause serious emotional damage.

27 (7) That the parent is not receiving reunification services for a
28 sibling or a half sibling of the child pursuant to paragraph (3), (5),
29 or (6).

30 (8) That the child was conceived by means of the commission
31 of an offense listed in Section 288 or 288.5 of the Penal Code, or
32 by an act committed outside of this state that, if committed in this
33 state, would constitute one of those offenses. This paragraph only
34 applies to the parent who committed the offense or act.

35 (9) That the child has been found to be a child described in
36 subdivision (g) of Section 300, that the parent or guardian of the
37 child willfully abandoned the child, and the court finds that the
38 abandonment itself constituted a serious danger to the child; or
39 that the parent or other person having custody of the child
40 voluntarily surrendered physical custody of the child pursuant to

1 Section 1255.7 of the Health and Safety Code. For the purposes
2 of this paragraph, “serious danger” means that without the
3 intervention of another person or agency, the child would have
4 sustained severe or permanent disability, injury, illness, or death.
5 For purposes of this paragraph, “willful abandonment” shall not
6 be construed as actions taken in good faith by the parent without
7 the intent of placing the child in serious danger.

8 (10) That the court ordered termination of reunification services
9 for any siblings or half siblings of the child because the parent or
10 guardian failed to reunify with the sibling or half sibling after the
11 sibling or half sibling had been removed from that parent or
12 guardian pursuant to Section 361 and that parent or guardian is
13 the same parent or guardian described in subdivision (a) and that,
14 according to the findings of the court, this parent or guardian has
15 not subsequently made a reasonable effort to treat the problems
16 that led to removal of the sibling or half sibling of that child from
17 that parent or guardian.

18 (11) That the parental rights of a parent over any sibling or half
19 sibling of the child had been permanently severed, and this parent
20 is the same parent described in subdivision (a), and that, according
21 to the findings of the court, this parent has not subsequently made
22 a reasonable effort to treat the problems that led to removal of the
23 sibling or half sibling of that child from the parent.

24 (12) That the parent or guardian of the child has been convicted
25 of a violent felony, as defined in subdivision (c) of Section 667.5
26 of the Penal Code.

27 (13) That the parent or guardian of the child has a history of
28 extensive, abusive, and chronic use of drugs or alcohol and has
29 resisted prior court-ordered treatment for this problem during a
30 three-year period immediately prior to the filing of the petition
31 that brought that child to the court’s attention, or has failed or
32 refused to comply with a program of drug or alcohol treatment
33 described in the case plan required by Section 358.1 on at least
34 two prior occasions, even though the programs identified were
35 available and accessible.

36 (14) That the parent or guardian of the child has advised the
37 court that he or she is not interested in receiving family
38 maintenance or family reunification services or having the child
39 returned to or placed in his or her custody and does not wish to
40 receive family maintenance or reunification services.

1 The parent or guardian shall be represented by counsel and shall
2 execute a waiver of services form to be adopted by the Judicial
3 Council. The court shall advise the parent or guardian of any right
4 to services and of the possible consequences of a waiver of
5 services, including the termination of parental rights and placement
6 of the child for adoption. The court shall not accept the waiver of
7 services unless it states on the record its finding that the parent or
8 guardian has knowingly and intelligently waived the right to
9 services.

10 (15) That the parent or guardian has on one or more occasions
11 willfully abducted the child or child's sibling or half sibling from
12 his or her placement and refused to disclose the child's or child's
13 sibling's or half sibling's whereabouts, refused to return physical
14 custody of the child or child's sibling or half sibling to his or her
15 placement, or refused to return physical custody of the child or
16 child's sibling or half sibling to the social worker.

17 (c) In deciding whether to order reunification in any case in
18 which this section applies, the court shall hold a dispositional
19 hearing. The social worker shall prepare a report that discusses
20 whether reunification services shall be provided. When it is alleged,
21 pursuant to paragraph (2) of subdivision (b), that the parent is
22 incapable of utilizing services due to mental disability, the court
23 shall order reunification services unless competent evidence from
24 mental health professionals establishes that, even with the provision
25 of services, the parent is unlikely to be capable of adequately caring
26 for the child within the time limits specified in subdivision (a).

27 The court shall not order reunification for a parent or guardian
28 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
29 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
30 and convincing evidence, that reunification is in the best interest
31 of the child.

32 In addition, the court shall not order reunification in any situation
33 described in paragraph (5) of subdivision (b) unless it finds that,
34 based on competent testimony, those services are likely to prevent
35 reabuse or continued neglect of the child or that failure to try
36 reunification will be detrimental to the child because the child is
37 closely and positively attached to that parent. The social worker
38 shall investigate the circumstances leading to the removal of the
39 child and advise the court whether there are circumstances that
40 indicate that reunification is likely to be successful or unsuccessful

1 and whether failure to order reunification is likely to be detrimental
2 to the child.

3 The failure of the parent to respond to previous services, the fact
4 that the child was abused while the parent was under the influence
5 of drugs or alcohol, a past history of violent behavior, or testimony
6 by a competent professional that the parent's behavior is unlikely
7 to be changed by services are among the factors indicating that
8 reunification services are unlikely to be successful. The fact that
9 a parent or guardian is no longer living with an individual who
10 severely abused the child may be considered in deciding that
11 reunification services are likely to be successful, provided that the
12 court shall consider any pattern of behavior on the part of the parent
13 that has exposed the child to repeated abuse.

14 (d) If reunification services are not ordered pursuant to
15 paragraph (1) of subdivision (b) and the whereabouts of a parent
16 become known within six months of the out-of-home placement
17 of the child, the court shall order the social worker to provide
18 family reunification services in accordance with this subdivision.

19 (e) (1) If the parent or guardian is incarcerated~~—or~~,
20 institutionalized, *detained by the United States Immigration and*
21 *Customs Enforcement, or deported to his or her country of origin*,
22 the court shall order reasonable services unless the court
23 determines, by clear and convincing evidence, those services would
24 be detrimental to the child. In determining detriment, the court
25 shall consider the age of the child, the degree of parent-child
26 bonding, the length of the sentence, the length and nature of the
27 treatment, the nature of the crime or illness, the degree of detriment
28 to the child if services are not offered and, for children 10 years
29 of age or older, the child's attitude toward the implementation of
30 family reunification services, the likelihood of the parent's
31 discharge from incarceration~~—or~~, institutionalization, *or detention,*
32 *or the likelihood of the parent's return to the United States* within
33 the reunification time limitations described in subdivision (a), and
34 any other appropriate factors. In determining the content of
35 reasonable services, the court shall consider the particular barriers
36 to an incarcerated~~—or—otherwise~~, institutionalized, *detained, or*
37 *deported* parent's access to those court-mandated services and
38 ability to maintain contact with his or her child, and shall document
39 this information in the child's case plan. Reunification services
40 are subject to the applicable time limitations imposed in subdivision

1 (a). Services may include, but shall not be limited to, all of the
2 following:

3 (A) Maintaining contact between the parent and child through
4 collect telephone calls.

5 (B) Transportation services, where appropriate.

6 (C) Visitation services, where appropriate.

7 (D) Reasonable services to extended family members or foster
8 parents providing care for the child if the services are not
9 detrimental to the child.

10 An incarcerated *or detained* parent may be required to attend
11 counseling, parenting classes, or vocational training programs as
12 part of the reunification service plan if actual access to these
13 services is provided. The social worker shall document in the
14 child's case plan the particular barriers to an incarcerated-~~or~~,
15 institutionalized, *or detained* parent's access to those
16 court-mandated services and ability to maintain contact with his
17 or her child.

18 (2) The presiding judge of the juvenile court of each county
19 may convene representatives of the county welfare department,
20 the sheriff's department, and other appropriate entities for the
21 purpose of developing and entering into protocols for ensuring the
22 notification, transportation, and presence of an incarcerated or
23 institutionalized parent at all court hearings involving proceedings
24 affecting the child pursuant to Section 2625 of the Penal Code.
25 The county welfare department shall utilize the prisoner locator
26 system developed by the Department of Corrections and
27 Rehabilitation to facilitate timely and effective notice of hearings
28 for incarcerated parents.

29 (3) Notwithstanding any other provision of law, if the
30 incarcerated parent is a woman seeking to participate in the
31 community treatment program operated by the Department of
32 Corrections and Rehabilitation pursuant to Chapter 4.8
33 (commencing with Section 1174) of Title 7 of Part 2 of, *or* Chapter
34 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal
35 Code, the court shall determine whether the parent's participation
36 in a program is in the child's best interest and whether it is suitable
37 to meet the needs of the parent and child.

38 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
39 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
40 paragraph (1) of subdivision (e), does not order reunification

1 services, it shall, at the dispositional hearing, that shall include a
2 permanency hearing, determine if a hearing under Section 366.26
3 shall be set in order to determine whether adoption, guardianship,
4 or long-term foster care is the most appropriate plan for the child,
5 and shall consider in-state and out-of-state placement options. If
6 the court so determines, it shall conduct the hearing pursuant to
7 Section 366.26 within 120 days after the dispositional hearing.
8 However, the court shall not schedule a hearing so long as the
9 other parent is being provided reunification services pursuant to
10 subdivision (a). The court may continue to permit the parent to
11 visit the child unless it finds that visitation would be detrimental
12 to the child.

13 (g) (1) Whenever a court orders that a hearing shall be held
14 pursuant to Section 366.26, it shall direct the agency supervising
15 the child and the licensed county adoption agency, or the State
16 Department of Social Services when it is acting as an adoption
17 agency in counties that are not served by a county adoption agency,
18 to prepare an assessment that shall include:

19 (A) Current search efforts for an absent parent or parents and
20 notification of a noncustodial parent in the manner provided for
21 in Section 291.

22 (B) A review of the amount of and nature of any contact between
23 the child and his or her parents and other members of his or her
24 extended family since the time of placement. Although the
25 extended family of each child shall be reviewed on a case-by-case
26 basis, “extended family” for the purpose of this subparagraph shall
27 include, but not be limited to, the child’s siblings, grandparents,
28 aunts, and uncles.

29 (C) An evaluation of the child’s medical, developmental,
30 scholastic, mental, and emotional status.

31 (D) A preliminary assessment of the eligibility and commitment
32 of any identified prospective adoptive parent or guardian,
33 particularly the caretaker, to include a social history, including
34 screening for criminal records and prior referrals for child abuse
35 or neglect, the capability to meet the child’s needs, and the
36 understanding of the legal and financial rights and responsibilities
37 of adoption and guardianship. If a proposed guardian is a relative
38 of the minor, the assessment shall also consider, but need not be
39 limited to, all of the factors specified in subdivision (a) of Section
40 361.3 and in Section 361.4. As used in this subparagraph, “relative”

1 means an adult who is related to the minor by blood, adoption, or
2 affinity within the fifth degree of kinship, including stepparents,
3 stepsiblings, and all relatives whose status is preceded by the words
4 “great,” “great-great,” or “grand,” or the spouse of any of those
5 persons even if the marriage was terminated by death or
6 dissolution.

7 (E) The relationship of the child to any identified prospective
8 adoptive parent or guardian, the duration and character of the
9 relationship, the degree of attachment of the child to the prospective
10 relative guardian or adoptive parent, the relative’s or adoptive
11 parent’s strong commitment to caring permanently for the child,
12 the motivation for seeking adoption or guardianship, a statement
13 from the child concerning placement and the adoption or
14 guardianship, and whether the child over 12 years of age has been
15 consulted about the proposed relative guardianship arrangements
16 unless the child’s age or physical, emotional, or other condition
17 precludes his or her meaningful response, and if so, a description
18 of the condition.

19 (F) An analysis of the likelihood that the child will be adopted
20 if parental rights are terminated.

21 (2) (A) A relative caregiver’s preference for legal guardianship
22 over adoption, if it is due to circumstances that do not include an
23 unwillingness to accept legal or financial responsibility for the
24 child, shall not constitute the sole basis for recommending removal
25 of the child from the relative caregiver for purposes of adoptive
26 placement.

27 (B) ~~A~~ *Regardless of his or her immigration status, a* relative
28 caregiver shall be given information regarding the permanency
29 options of guardianship and adoption, including the long-term
30 benefits and consequences of each option, prior to establishing
31 legal guardianship or pursuing adoption.

32 (h) If, at any hearing held pursuant to Section 366.26, a
33 guardianship is established for the minor with an approved relative
34 caregiver and juvenile court dependency is subsequently dismissed,
35 the minor shall be eligible for aid under the Kin-GAP Program as
36 provided for in Article 4.5 (commencing with Section 11360) or
37 Article 4.7 (commencing with Section 11385) of Chapter 2, as
38 applicable.

39 (i) In determining whether reunification services will benefit
40 the child pursuant to paragraph (6) or (7) of subdivision (b), the

1 court shall consider any information it deems relevant, including
2 the following factors:

3 (1) The specific act or omission comprising the severe sexual
4 abuse or the severe physical harm inflicted on the child or the
5 child's sibling or half sibling.

6 (2) The circumstances under which the abuse or harm was
7 inflicted on the child or the child's sibling or half sibling.

8 (3) The severity of the emotional trauma suffered by the child
9 or the child's sibling or half sibling.

10 (4) Any history of abuse of other children by the offending
11 parent or guardian.

12 (5) The likelihood that the child may be safely returned to the
13 care of the offending parent or guardian within 12 months with no
14 continuing supervision.

15 (6) Whether or not the child desires to be reunified with the
16 offending parent or guardian.

17 (j) When the court determines that reunification services will
18 not be ordered, it shall order that the child's caregiver receive the
19 child's birth certificate in accordance with Sections 16010.4 and
20 16010.5. Additionally, when the court determines that reunification
21 services will not be ordered, it shall order, when appropriate, that
22 a child who is 16 years of age or older receive his or her birth
23 certificate.

24 (k) The court shall read into the record the basis for a finding
25 of severe sexual abuse or the infliction of severe physical harm
26 under paragraph (6) of subdivision (b), and shall also specify the
27 factual findings used to determine that the provision of
28 reunification services to the offending parent or guardian would
29 not benefit the child.

30 (l) This section shall become operative on January 1, 2014.

31 SEC. 11. Section 366.21 of the Welfare and Institutions Code,
32 as amended by Section 3 of Chapter 59 of the Statutes of 2011, is
33 amended to read:

34 366.21. (a) Every hearing conducted by the juvenile court
35 reviewing the status of a dependent child shall be placed on the
36 appearance calendar. The court shall advise all persons present at
37 the hearing of the date of the future hearing and of their right to
38 be present and represented by counsel.

39 (b) Except as provided in Sections 294 and 295, notice of the
40 hearing shall be provided pursuant to Section 293.

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

(d) Prior to any hearing involving a child in the physical custody of a community care facility or a foster family agency that may

1 result in the return of the child to the physical custody of his or
2 her parent or legal guardian, or in adoption or the creation of a
3 legal guardianship, or in the case of an Indian child, in consultation
4 with the child's tribe, tribal customary adoption, the facility or
5 agency shall file with the court a report, or a Judicial Council
6 Caregiver Information Form (JV-290), containing its
7 recommendation for disposition. Prior to the hearing involving a
8 child in the physical custody of a foster parent, a relative caregiver,
9 or a certified foster parent who has been approved for adoption by
10 the State Department of Social Services when it is acting as an
11 adoption agency or by a licensed adoption agency, the foster parent,
12 relative caregiver, or the certified foster parent who has been
13 approved for adoption by the State Department of Social Services
14 when it is acting as an adoption agency in counties that are not
15 served by a county adoption agency or by a licensed county
16 adoption agency, may file with the court a report containing his
17 or her recommendation for disposition. The court shall consider
18 the report and recommendation filed pursuant to this subdivision
19 prior to determining any disposition.

20 (e) At the review hearing held six months after the initial
21 dispositional hearing, but no later than 12 months after the date
22 the child entered foster care as determined in Section 361.49,
23 whichever occurs earlier, the court shall order the return of the
24 child to the physical custody of his or her parent or legal guardian
25 unless the court finds, by a preponderance of the evidence, that
26 the return of the child to his or her parent or legal guardian would
27 create a substantial risk of detriment to the safety, protection, or
28 physical or emotional well-being of the child. The social worker
29 shall have the burden of establishing that detriment. At the hearing,
30 the court shall consider the criminal history, obtained pursuant to
31 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
32 or legal guardian subsequent to the child's removal to the extent
33 that the criminal record is substantially related to the welfare of
34 the child or the parent's or guardian's ability to exercise custody
35 and control regarding his or her child, provided the parent or legal
36 guardian agreed to submit fingerprint images to obtain criminal
37 history information as part of the case plan. The failure of the
38 parent or legal guardian to participate regularly and make
39 substantive progress in court-ordered treatment programs shall be
40 prima facie evidence that return would be detrimental. In making

1 its determination, the court shall review and consider the social
2 worker's report and recommendations and the report and
3 recommendations of any child advocate appointed pursuant to
4 Section 356.5; and shall consider the efforts or progress, or both,
5 demonstrated by the parent or legal guardian and the extent to
6 which he or she availed himself or herself to services provided,
7 taking into account the particular barriers to an incarcerated ~~or~~,
8 institutionalized ~~parent~~, *detained, or deported parent's* or legal
9 guardian's access to those court-mandated services and ability to
10 maintain contact with his or her child.

11 Regardless of whether the child is returned to a parent or legal
12 guardian, the court shall specify the factual basis for its conclusion
13 that the return would be detrimental or would not be detrimental.
14 The court also shall make appropriate findings pursuant to
15 subdivision (a) of Section 366; and, where relevant, shall order
16 any additional services reasonably believed to facilitate the return
17 of the child to the custody of his or her parent or legal guardian.
18 The court shall also inform the parent or legal guardian that if the
19 child cannot be returned home by the 12-month permanency
20 hearing, a proceeding pursuant to Section 366.26 may be instituted.
21 This section does not apply in a case where, pursuant to Section
22 361.5, the court has ordered that reunification services shall not
23 be provided.

24 If the child was under three years of age on the date of the initial
25 removal, or is a member of a sibling group described in
26 subparagraph (C) of paragraph (1) of subdivision (a) of Section
27 361.5, and the court finds by clear and convincing evidence that
28 the parent failed to participate regularly and make substantive
29 progress in a court-ordered treatment plan, the court may schedule
30 a hearing pursuant to Section 366.26 within 120 days. If, however,
31 the court finds there is a substantial probability that the child, who
32 was under three years of age on the date of initial removal or is a
33 member of a sibling group described in subparagraph (C) of
34 paragraph (1) of subdivision (a) of Section 361.5, may be returned
35 to his or her parent or legal guardian within six months or that
36 reasonable services have not been provided, the court shall continue
37 the case to the 12-month permanency hearing.

38 For the purpose of placing and maintaining a sibling group
39 together in a permanent home, the court, in making its
40 determination to schedule a hearing pursuant to Section 366.26

1 for some or all members of a sibling group, as described in
2 subparagraph (C) of paragraph (1) of subdivision (a) of Section
3 361.5, shall review and consider the social worker's report and
4 recommendations. Factors the report shall address, and the court
5 shall consider, may include, but need not be limited to, whether
6 the sibling group was removed from parental care as a group, the
7 closeness and strength of the sibling bond, the ages of the siblings,
8 the appropriateness of maintaining the sibling group together, the
9 detriment to the child if sibling ties are not maintained, the
10 likelihood of finding a permanent home for the sibling group,
11 whether the sibling group is currently placed together in a
12 preadoptive home or has a concurrent plan goal of legal
13 permanency in the same home, the wishes of each child whose
14 age and physical and emotional condition permits a meaningful
15 response, and the best interest of each child in the sibling group.
16 The court shall specify the factual basis for its finding that it is in
17 the best interest of each child to schedule a hearing pursuant to
18 Section 366.26 in 120 days for some or all of the members of the
19 sibling group.

20 If the child was removed initially under subdivision (g) of
21 Section 300 and the court finds by clear and convincing evidence
22 that the whereabouts of the parent are still unknown, or the parent
23 has failed to contact and visit the child, the court may schedule a
24 hearing pursuant to Section 366.26 within 120 days. The court
25 shall take into account any particular barriers to a parent's ability
26 to maintain contact with his or her child due to the parent's
27 incarceration~~or~~, institutionalization, *detention by the United States*
28 *Immigration and Customs Enforcement*, or *deportation*. If the
29 court finds by clear and convincing evidence that the parent has
30 been convicted of a felony indicating parental unfitness, the court
31 may schedule a hearing pursuant to Section 366.26 within 120
32 days.

33 If the child had been placed under court supervision with a
34 previously noncustodial parent pursuant to Section 361.2, the court
35 shall determine whether supervision is still necessary. The court
36 may terminate supervision and transfer permanent custody to that
37 parent, as provided for by paragraph (1) of subdivision (b) of
38 Section 361.2.

39 In all other cases, the court shall direct that any reunification
40 services previously ordered shall continue to be offered to the

1 parent or legal guardian pursuant to the time periods set forth in
2 subdivision (a) of Section 361.5, provided that the court may
3 modify the terms and conditions of those services.

4 If the child is not returned to his or her parent or legal guardian,
5 the court shall determine whether reasonable services that were
6 designed to aid the parent or legal guardian in overcoming the
7 problems that led to the initial removal and the continued custody
8 of the child have been provided or offered to the parent or legal
9 guardian. The court shall order that those services be initiated,
10 continued, or terminated.

11 (f) The permanency hearing shall be held no later than 12
12 months after the date the child entered foster care, as that date is
13 determined pursuant to Section 361.49. At the permanency hearing,
14 the court shall determine the permanent plan for the child, which
15 shall include a determination of whether the child will be returned
16 to the child's home and, if so, when, within the time limits of
17 subdivision (a) of Section 361.5. The court shall order the return
18 of the child to the physical custody of his or her parent or legal
19 guardian unless the court finds, by a preponderance of the evidence,
20 that the return of the child to his or her parent or legal guardian
21 would create a substantial risk of detriment to the safety, protection,
22 or physical or emotional well-being of the child. The social worker
23 shall have the burden of establishing that detriment. At the
24 permanency hearing, the court shall consider the criminal history,
25 obtained pursuant to paragraph (1) of subdivision (f) of Section
26 16504.5, of the parent or legal guardian subsequent to the child's
27 removal to the extent that the criminal record is substantially related
28 to the welfare of the child or the parent or legal guardian's ability
29 to exercise custody and control regarding his or her child, provided
30 that the parent or legal guardian agreed to submit fingerprint images
31 to obtain criminal history information as part of the case plan. The
32 court shall also determine whether reasonable services that were
33 designed to aid the parent or legal guardian to overcome the
34 problems that led to the initial removal and continued custody of
35 the child have been provided or offered to the parent or legal
36 guardian. For each youth 16 years of age and older, the court shall
37 also determine whether services have been made available to assist
38 him or her in making the transition from foster care to independent
39 living. The failure of the parent or legal guardian to participate
40 regularly and make substantive progress in court-ordered treatment

1 programs shall be prima facie evidence that return would be
2 detrimental. In making its determination, the court shall review
3 and consider the social worker's report and recommendations and
4 the report and recommendations of any child advocate appointed
5 pursuant to Section 356.5, shall consider the efforts or progress,
6 or both, demonstrated by the parent or legal guardian and the extent
7 to which he or she availed himself or herself of services provided,
8 taking into account the particular barriers to an incarcerated ~~or,~~
9 institutionalized ~~parent,~~ *detained, or deported parent's* or legal
10 guardian's access to those court-mandated services and ability to
11 maintain contact with his or her child and shall make appropriate
12 findings pursuant to subdivision (a) of Section 366.

13 Regardless of whether the child is returned to his or her parent
14 or legal guardian, the court shall specify the factual basis for its
15 decision. If the child is not returned to a parent or legal guardian,
16 the court shall specify the factual basis for its conclusion that the
17 return would be detrimental. The court also shall make a finding
18 pursuant to subdivision (a) of Section 366. If the child is not
19 returned to his or her parent or legal guardian, the court shall
20 consider, and state for the record, in-state and out-of-state
21 placement options. If the child is placed out of the state, the court
22 shall make a determination whether the out-of-state placement
23 continues to be appropriate and in the best interests of the child.

24 (g) If the time period in which the court-ordered services were
25 provided has met or exceeded the time period set forth in
26 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
27 of Section 361.5, as appropriate, and a child is not returned to the
28 custody of a parent or legal guardian at the permanency hearing
29 held pursuant to subdivision (f), the court shall do one of the
30 following:

31 (1) Continue the case for up to six months for a permanency
32 review hearing, provided that the hearing shall occur within 18
33 months of the date the child was originally taken from the physical
34 custody of his or her parent or legal guardian. The court shall
35 continue the case only if it finds that there is a substantial
36 probability that the child will be returned to the physical custody
37 of his or her parent or legal guardian and safely maintained in the
38 home within the extended period of time or that reasonable services
39 have not been provided to the parent or legal guardian. For the
40 purposes of this section, in order to find a substantial probability

1 that the child will be returned to the physical custody of his or her
2 parent or legal guardian and safely maintained in the home within
3 the extended period of time, the court shall be required to find all
4 of the following:

5 (A) That the parent or legal guardian has consistently and
6 regularly contacted and visited with the child.

7 (B) That the parent or legal guardian has made significant
8 progress in resolving problems that led to the child's removal from
9 the home.

10 (C) The parent or legal guardian has demonstrated the capacity
11 and ability both to complete the objectives of his or her treatment
12 plan and to provide for the child's safety, protection, physical and
13 emotional well-being, and special needs.

14 For purposes of this subdivision, the court's decision to continue
15 the case based on a finding or substantial probability that the child
16 will be returned to the physical custody of his or her parent or legal
17 guardian is a compelling reason for determining that a hearing
18 held pursuant to Section 366.26 is not in the best interests of the
19 child.

20 The court shall inform the parent or legal guardian that if the
21 child cannot be returned home by the next permanency review
22 hearing, a proceeding pursuant to Section 366.26 may be instituted.
23 The court may not order that a hearing pursuant to Section 366.26
24 be held unless there is clear and convincing evidence that
25 reasonable services have been provided or offered to the parent or
26 legal guardian.

27 (2) *Continue the case for up to six months for a permanency*
28 *review hearing, provided that the hearing shall occur within 18*
29 *months of the date the child was originally taken from the physical*
30 *custody of his or her parent or legal guardian, if the parent has*
31 *been arrested and issued an immigration hold, detained by the*
32 *United States Immigration and Customs Enforcement, or deported*
33 *to his or her country of origin, and the court determines that either*
34 *the parent has made reasonable efforts to regain custody of the*
35 *child or that termination of parental rights would be detrimental*
36 *to the child.*

37 *The court may decide not to extend the case under this paragraph*
38 *if the child is under three years of age or is part of a sibling group*
39 *in which at least one child is under three years of age and the*
40 *siblings are, or should be, permanently placed together.*

1 (3) *A court shall not grant an extension under paragraph (2) if*
2 *any of the following factors are present:*

3 (A) *The child is an abandoned infant.*

4 (B) *The parent has been accused of murder or voluntary*
5 *manslaughter of another child of the parent, or has been accused*
6 *of felony assault against this child or another child of the parent.*

7 (C) *Any other circumstance under subdivision (b) of Section*
8 *361.5 or federal law permits the court not to order reunification*
9 *services.*

10 ~~(2)~~

11 (4) *Order that a hearing be held within 120 days, pursuant to*
12 *Section 366.26, but only if the court does not continue the case to*
13 *the permanency planning review hearing and there is clear and*
14 *convincing evidence that reasonable services have been provided*
15 *or offered to the parents or legal guardians. On and after January*
16 *1, 2012, a hearing pursuant to Section 366.26 shall not be ordered*
17 *if the child is a nonminor dependent.*

18 ~~(3)~~

19 (5) *Order that the child remain in long-term foster care, but only*
20 *if the court finds by clear and convincing evidence, based upon*
21 *the evidence already presented to it, including a recommendation*
22 *by the State Department of Social Services when it is acting as an*
23 *adoption agency in counties that are not served by a county*
24 *adoption agency or by a licensed county adoption agency, that*
25 *there is a compelling reason for determining that a hearing held*
26 *pursuant to Section 366.26 is not in the best interest of the child*
27 *because the child is not a proper subject for adoption and has no*
28 *one willing to accept legal guardianship. For purposes of this*
29 *section, a recommendation by the State Department of Social*
30 *Services when it is acting as an adoption agency in counties that*
31 *are not served by a county adoption agency or by a licensed county*
32 *adoption agency that adoption is not in the best interest of the child*
33 *shall constitute a compelling reason for the court's determination.*
34 *That recommendation shall be based on the present circumstances*
35 *of the child and shall not preclude a different recommendation at*
36 *a later date if the child's circumstances change. On and after*
37 *January 1, 2012, the nonminor dependent's legal status as an adult*
38 *is in and of itself a compelling reason not to hold a hearing pursuant*
39 *to Section 366.26. The court may order that a nonminor dependent*

1 who otherwise is eligible pursuant to Section 11403 remain in a
2 planned, permanent living arrangement.

3 If the court orders that a child who is 10 years of age or older
4 remain in long-term foster care, the court shall determine whether
5 the agency has made reasonable efforts to maintain the child's
6 relationships with individuals other than the child's siblings who
7 are important to the child, consistent with the child's best interests,
8 and may make any appropriate order to ensure that those
9 relationships are maintained.

10 If the child is not returned to his or her parent or legal guardian,
11 the court shall consider, and state for the record, in-state and
12 out-of-state options for permanent placement. If the child is placed
13 out of the state, the court shall make a determination whether the
14 out-of-state placement continues to be appropriate and in the best
15 interests of the child.

16 (h) In any case in which the court orders that a hearing pursuant
17 to Section 366.26 shall be held, it shall also order the termination
18 of reunification services to the parent or legal guardian. The court
19 shall continue to permit the parent or legal guardian to visit the
20 child pending the hearing unless it finds that visitation would be
21 detrimental to the child. The court shall make any other appropriate
22 orders to enable the child to maintain relationships with individuals,
23 other than the child's siblings, who are important to the child,
24 consistent with the child's best interests. When the court orders a
25 termination of reunification services to the parent or legal guardian,
26 it shall also order that the child's caregiver receive the child's birth
27 certificate in accordance with Sections 16010.4 and 16010.5.
28 Additionally, when the court orders a termination of reunification
29 services to the parent of legal guardian, it shall order, when
30 appropriate, that a child who is 16 years of age or older receive
31 his or her birth certificate.

32 (i) (1) Whenever a court orders that a hearing pursuant to
33 Section 366.26, including, when, in consultation with the child's
34 tribe, tribal customary adoption is recommended, shall be held, it
35 shall direct the agency supervising the child and the licensed county
36 adoption agency, or the State Department of Social Services when
37 it is acting as an adoption agency in counties that are not served
38 by a county adoption agency, to prepare an assessment that shall
39 include:

1 (A) Current search efforts for an absent parent or parents or
2 legal guardians.

3 (B) A review of the amount of and nature of any contact between
4 the child and his or her parents or legal guardians and other
5 members of his or her extended family since the time of placement.
6 Although the extended family of each child shall be reviewed on
7 a case-by-case basis, “extended family” for the purpose of this
8 subparagraph shall include, but not be limited to, the child’s
9 siblings, grandparents, aunts, and uncles.

10 (C) An evaluation of the child’s medical, developmental,
11 scholastic, mental, and emotional status.

12 (D) A preliminary assessment of the eligibility and commitment
13 of any identified prospective adoptive parent or legal guardian,
14 including the prospective tribal customary adoptive parent,
15 particularly the caretaker, to include a social history including
16 screening for criminal records and prior referrals for child abuse
17 or neglect, the capability to meet the child’s needs, and the
18 understanding of the legal and financial rights and responsibilities
19 of adoption and guardianship. If a proposed guardian is a relative
20 of the minor, the assessment shall also consider, but need not be
21 limited to, all of the factors specified in subdivision (a) of Section
22 361.3 and in Section 361.4.

23 (E) The relationship of the child to any identified prospective
24 adoptive parent or legal guardian, the duration and character of
25 the relationship, the degree of attachment of the child to the
26 prospective relative guardian or adoptive parent, the relative’s or
27 adoptive parent’s strong commitment to caring permanently for
28 the child, the motivation for seeking adoption or guardianship, a
29 statement from the child concerning placement and the adoption
30 or guardianship, and whether the child, if over 12 years of age,
31 has been consulted about the proposed relative guardianship
32 arrangements, unless the child’s age or physical, emotional, or
33 other condition precludes his or her meaningful response, and if
34 so, a description of the condition.

35 (F) A description of efforts to be made to identify a prospective
36 adoptive parent or legal guardian, including, but not limited to,
37 child-specific recruitment and listing on an adoption exchange
38 within the state or out of the state.

39 (G) An analysis of the likelihood that the child will be adopted
40 if parental rights are terminated.

1 (H) In the case of an Indian child, in addition to subparagraphs
2 (A) to (G), inclusive, an assessment of the likelihood that the child
3 will be adopted, when, in consultation with the child's tribe, a
4 customary tribal adoption, as defined in Section 366.24, is
5 recommended. If tribal customary adoption is recommended, the
6 assessment shall include an analysis of both of the following:

7 (i) Whether tribal customary adoption would or would not be
8 detrimental to the Indian child and the reasons for reaching that
9 conclusion.

10 (ii) Whether the Indian child cannot or should not be returned
11 to the home of the Indian parent or Indian custodian and the reasons
12 for reaching that conclusion.

13 (2) (A) A relative caregiver's preference for legal guardianship
14 over adoption, if it is due to circumstances that do not include an
15 unwillingness to accept legal or financial responsibility for the
16 child, shall not constitute the sole basis for recommending removal
17 of the child from the relative caregiver for purposes of adoptive
18 placement.

19 (B) ~~A~~ *Regardless of his or her immigration status*, a relative
20 caregiver shall be given information regarding the permanency
21 options of guardianship and adoption, including the long-term
22 benefits and consequences of each option, prior to establishing
23 legal guardianship or pursuing adoption.

24 (j) If, at any hearing held pursuant to Section 366.26, a
25 guardianship is established for the minor with an approved relative
26 caregiver, and juvenile court dependency is subsequently
27 dismissed, the minor shall be eligible for aid under the Kin-GAP
28 Program, as provided for in Article 4.5 (commencing with Section
29 11360) or Article 4.7 (commencing with Section 11385), as
30 applicable, of Chapter 2 of Part 3 of Division 9.

31 (k) As used in this section, "relative" means an adult who is
32 related to the minor by blood, adoption, or affinity within the fifth
33 degree of kinship, including stepparents, stepsiblings, and all
34 relatives whose status is preceded by the words "great,"
35 "great-great," or "grand," or the spouse of any of those persons
36 even if the marriage was terminated by death or dissolution.

37 (l) For purposes of this section, evidence of any of the following
38 circumstances may not, in and of itself, be deemed a failure to
39 provide or offer reasonable services:

1 (1) The child has been placed with a foster family that is eligible
2 to adopt a child, or has been placed in a preadoptive home.

3 (2) The case plan includes services to make and finalize a
4 permanent placement for the child if efforts to reunify fail.

5 (3) Services to make and finalize a permanent placement for
6 the child, if efforts to reunify fail, are provided concurrently with
7 services to reunify the family.

8 (m) The implementation and operation of the amendments to
9 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
10 shall be subject to appropriation through the budget process and
11 by phase, as provided in Section 366.35.

12 (n) This section shall remain in effect only until January 1, 2014,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2014, deletes or extends that date.

15 SEC. 12. Section 366.21 of the Welfare and Institutions Code,
16 as amended by Section 4 of Chapter 59 of the Statutes of 2011, is
17 amended to read:

18 366.21. (a) Every hearing conducted by the juvenile court
19 reviewing the status of a dependent child shall be placed on the
20 appearance calendar. The court shall advise all persons present at
21 the hearing of the date of the future hearing and of their right to
22 be present and represented by counsel.

23 (b) Except as provided in Sections 294 and 295, notice of the
24 hearing shall be provided pursuant to Section 293.

25 (c) At least 10 calendar days prior to the hearing, the social
26 worker shall file a supplemental report with the court regarding
27 the services provided or offered to the parent or legal guardian to
28 enable him or her to assume custody and the efforts made to
29 achieve legal permanence for the child if efforts to reunify fail,
30 including, but not limited to, efforts to maintain relationships
31 between a child who is 10 years of age or older and has been in
32 out-of-home placement for six months or longer and individuals
33 who are important to the child, consistent with the child's best
34 interests; the progress made; and, where relevant, the prognosis
35 for return of the child to the physical custody of his or her parent
36 or legal guardian; and shall make his or her recommendation for
37 disposition. If the child is a member of a sibling group described
38 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
39 361.5, the report and recommendation may also take into account
40 those factors described in subdivision (e) relating to the child's

1 sibling group. If the recommendation is not to return the child to
2 a parent or legal guardian, the report shall specify why the return
3 of the child would be detrimental to the child. The social worker
4 shall provide the parent or legal guardian, counsel for the child,
5 and any court-appointed child advocate with a copy of the report,
6 including his or her recommendation for disposition, at least 10
7 calendar days prior to the hearing. In the case of a child removed
8 from the physical custody of his or her parent or legal guardian,
9 the social worker shall, at least 10 calendar days prior to the
10 hearing, provide a summary of his or her recommendation for
11 disposition to any foster parents, relative caregivers, and certified
12 foster parents who have been approved for adoption by the State
13 Department of Social Services when it is acting as an adoption
14 agency in counties that are not served by a county adoption agency
15 or by a licensed county adoption agency, community care facility,
16 or foster family agency having the physical custody of the child.
17 The social worker shall include a copy of the Judicial Council
18 Caregiver Information Form (JV-290) with the summary of
19 recommendations to the child's foster parents, relative caregivers,
20 or foster parents approved for adoption, in the caregiver's primary
21 language when available, along with information on how to file
22 the form with the court.

23 (d) Prior to any hearing involving a child in the physical custody
24 of a community care facility or a foster family agency that may
25 result in the return of the child to the physical custody of his or
26 her parent or legal guardian, or in adoption or the creation of a
27 legal guardianship, the facility or agency shall file with the court
28 a report, or a Judicial Council Caregiver Information Form
29 (JV-290), containing its recommendation for disposition. Prior to
30 the hearing involving a child in the physical custody of a foster
31 parent, a relative caregiver, or a certified foster parent who has
32 been approved for adoption by the State Department of Social
33 Services when it is acting as an adoption agency or by a licensed
34 adoption agency, the foster parent, relative caregiver, or the
35 certified foster parent who has been approved for adoption by the
36 State Department of Social Services when it is acting as an
37 adoption agency in counties that are not served by a county
38 adoption agency or by a licensed county adoption agency, may
39 file with the court a report containing his or her recommendation
40 for disposition. The court shall consider the report and

1 recommendation filed pursuant to this subdivision prior to
2 determining any disposition.

3 (e) At the review hearing held six months after the initial
4 dispositional hearing, but no later than 12 months after the date
5 the child entered foster care as determined in Section 361.49,
6 whichever occurs earlier, the court shall order the return of the
7 child to the physical custody of his or her parent or legal guardian
8 unless the court finds, by a preponderance of the evidence, that
9 the return of the child to his or her parent or legal guardian would
10 create a substantial risk of detriment to the safety, protection, or
11 physical or emotional well-being of the child. The social worker
12 shall have the burden of establishing that detriment. At the hearing,
13 the court shall consider the criminal history, obtained pursuant to
14 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
15 or legal guardian subsequent to the child's removal to the extent
16 that the criminal record is substantially related to the welfare of
17 the child or the parent's or guardian's ability to exercise custody
18 and control regarding his or her child, provided the parent or legal
19 guardian agreed to submit fingerprint images to obtain criminal
20 history information as part of the case plan. The failure of the
21 parent or legal guardian to participate regularly and make
22 substantive progress in court-ordered treatment programs shall be
23 prima facie evidence that return would be detrimental. In making
24 its determination, the court shall review and consider the social
25 worker's report and recommendations and the report and
26 recommendations of any child advocate appointed pursuant to
27 Section 356.5; and shall consider the efforts or progress, or both,
28 demonstrated by the parent or legal guardian and the extent to
29 which he or she availed himself or herself to services provided,
30 taking into account the particular barriers to an incarcerated-~~or~~,
31 institutionalized-~~parent~~, *detained, or deported parent's* or legal
32 guardian's access to those court-mandated services and ability to
33 maintain contact with his or her child.

34 Regardless of whether the child is returned to a parent or legal
35 guardian, the court shall specify the factual basis for its conclusion
36 that the return would be detrimental or would not be detrimental.
37 The court also shall make appropriate findings pursuant to
38 subdivision (a) of Section 366; and, where relevant, shall order
39 any additional services reasonably believed to facilitate the return
40 of the child to the custody of his or her parent or legal guardian.

1 The court shall also inform the parent or legal guardian that if the
2 child cannot be returned home by the 12-month permanency
3 hearing, a proceeding pursuant to Section 366.26 may be instituted.
4 This section does not apply in a case where, pursuant to Section
5 361.5, the court has ordered that reunification services shall not
6 be provided.

7 If the child was under three years of age on the date of the initial
8 removal, or is a member of a sibling group described in
9 subparagraph (C) of paragraph (1) of subdivision (a) of Section
10 361.5, and the court finds by clear and convincing evidence that
11 the parent failed to participate regularly and make substantive
12 progress in a court-ordered treatment plan, the court may schedule
13 a hearing pursuant to Section 366.26 within 120 days. If, however,
14 the court finds there is a substantial probability that the child, who
15 was under three years of age on the date of initial removal or is a
16 member of a sibling group described in subparagraph (C) of
17 paragraph (1) of subdivision (a) of Section 361.5, may be returned
18 to his or her parent or legal guardian within six months or that
19 reasonable services have not been provided, the court shall continue
20 the case to the 12-month permanency hearing.

21 For the purpose of placing and maintaining a sibling group
22 together in a permanent home, the court, in making its
23 determination to schedule a hearing pursuant to Section 366.26
24 for some or all members of a sibling group, as described in
25 subparagraph (C) of paragraph (1) of subdivision (a) of Section
26 361.5, shall review and consider the social worker's report and
27 recommendations. Factors the report shall address, and the court
28 shall consider, may include, but need not be limited to, whether
29 the sibling group was removed from parental care as a group, the
30 closeness and strength of the sibling bond, the ages of the siblings,
31 the appropriateness of maintaining the sibling group together, the
32 detriment to the child if sibling ties are not maintained, the
33 likelihood of finding a permanent home for the sibling group,
34 whether the sibling group is currently placed together in a
35 preadoptive home or has a concurrent plan goal of legal
36 permanency in the same home, the wishes of each child whose
37 age and physical and emotional condition permits a meaningful
38 response, and the best interest of each child in the sibling group.
39 The court shall specify the factual basis for its finding that it is in
40 the best interest of each child to schedule a hearing pursuant to

1 Section 366.26 in 120 days for some or all of the members of the
2 sibling group.

3 If the child was removed initially under subdivision (g) of
4 Section 300 and the court finds by clear and convincing evidence
5 that the whereabouts of the parent are still unknown, or the parent
6 has failed to contact and visit the child, the court may schedule a
7 hearing pursuant to Section 366.26 within 120 days. The court
8 shall take into account any particular barriers to a parent's ability
9 to maintain contact with his or her child due to the parent's
10 incarceration~~or~~, institutionalization, *detention by the United States*
11 *Immigration and Customs Enforcement, or deportation*. If the
12 court finds by clear and convincing evidence that the parent has
13 been convicted of a felony indicating parental unfitness, the court
14 may schedule a hearing pursuant to Section 366.26 within 120
15 days.

16 If the child had been placed under court supervision with a
17 previously noncustodial parent pursuant to Section 361.2, the court
18 shall determine whether supervision is still necessary. The court
19 may terminate supervision and transfer permanent custody to that
20 parent, as provided for by paragraph (1) of subdivision (b) of
21 Section 361.2.

22 In all other cases, the court shall direct that any reunification
23 services previously ordered shall continue to be offered to the
24 parent or legal guardian pursuant to the time periods set forth in
25 subdivision (a) of Section 361.5, provided that the court may
26 modify the terms and conditions of those services.

27 If the child is not returned to his or her parent or legal guardian,
28 the court shall determine whether reasonable services that were
29 designed to aid the parent or legal guardian in overcoming the
30 problems that led to the initial removal and the continued custody
31 of the child have been provided or offered to the parent or legal
32 guardian. The court shall order that those services be initiated,
33 continued, or terminated.

34 (f) The permanency hearing shall be held no later than 12
35 months after the date the child entered foster care, as that date is
36 determined pursuant to Section 361.49. At the permanency hearing,
37 the court shall determine the permanent plan for the child, which
38 shall include a determination of whether the child will be returned
39 to the child's home and, if so, when, within the time limits of
40 subdivision (a) of Section 361.5. The court shall order the return

1 of the child to the physical custody of his or her parent or legal
2 guardian unless the court finds, by a preponderance of the evidence,
3 that the return of the child to his or her parent or legal guardian
4 would create a substantial risk of detriment to the safety, protection,
5 or physical or emotional well-being of the child. The social worker
6 shall have the burden of establishing that detriment. At the
7 permanency hearing, the court shall consider the criminal history,
8 obtained pursuant to paragraph (1) of subdivision (f) of Section
9 16504.5, of the parent or legal guardian subsequent to the child's
10 removal to the extent that the criminal record is substantially related
11 to the welfare of the child or the parent or legal guardian's ability
12 to exercise custody and control regarding his or her child, provided
13 that the parent or legal guardian agreed to submit fingerprint images
14 to obtain criminal history information as part of the case plan. The
15 court shall also determine whether reasonable services that were
16 designed to aid the parent or legal guardian to overcome the
17 problems that led to the initial removal and continued custody of
18 the child have been provided or offered to the parent or legal
19 guardian. For each youth 16 years of age and older, the court shall
20 also determine whether services have been made available to assist
21 him or her in making the transition from foster care to independent
22 living. The failure of the parent or legal guardian to participate
23 regularly and make substantive progress in court-ordered treatment
24 programs shall be prima facie evidence that return would be
25 detrimental. In making its determination, the court shall review
26 and consider the social worker's report and recommendations and
27 the report and recommendations of any child advocate appointed
28 pursuant to Section 356.5, shall consider the efforts or progress,
29 or both, demonstrated by the parent or legal guardian and the extent
30 to which he or she availed himself or herself of services provided,
31 taking into account the particular barriers to an incarcerated-~~or~~,
32 institutionalized-~~parent~~, *detained, or deported parent's* or legal
33 guardian's access to those court-mandated services and ability to
34 maintain contact with his or her child and shall make appropriate
35 findings pursuant to subdivision (a) of Section 366.

36 Regardless of whether the child is returned to his or her parent
37 or legal guardian, the court shall specify the factual basis for its
38 decision. If the child is not returned to a parent or legal guardian,
39 the court shall specify the factual basis for its conclusion that the
40 return would be detrimental. The court also shall make a finding

1 pursuant to subdivision (a) of Section 366. If the child is not
2 returned to his or her parent or legal guardian, the court shall
3 consider, and state for the record, in-state and out-of-state
4 placement options. If the child is placed out of the state, the court
5 shall make a determination whether the out-of-state placement
6 continues to be appropriate and in the best interests of the child.

7 (g) If the time period in which the court-ordered services were
8 provided has met or exceeded the time period set forth in
9 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
10 of Section 361.5, as appropriate, and a child is not returned to the
11 custody of a parent or legal guardian at the permanency hearing
12 held pursuant to subdivision (f), the court shall do one of the
13 following:

14 (1) Continue the case for up to six months for a permanency
15 review hearing, provided that the hearing shall occur within 18
16 months of the date the child was originally taken from the physical
17 custody of his or her parent or legal guardian. The court shall
18 continue the case only if it finds that there is a substantial
19 probability that the child will be returned to the physical custody
20 of his or her parent or legal guardian and safely maintained in the
21 home within the extended period of time or that reasonable services
22 have not been provided to the parent or legal guardian. For the
23 purposes of this section, in order to find a substantial probability
24 that the child will be returned to the physical custody of his or her
25 parent or legal guardian and safely maintained in the home within
26 the extended period of time, the court shall be required to find all
27 of the following:

28 (A) That the parent or legal guardian has consistently and
29 regularly contacted and visited with the child.

30 (B) That the parent or legal guardian has made significant
31 progress in resolving problems that led to the child's removal from
32 the home.

33 (C) The parent or legal guardian has demonstrated the capacity
34 and ability both to complete the objectives of his or her treatment
35 plan and to provide for the child's safety, protection, physical and
36 emotional well-being, and special needs.

37 For purposes of this subdivision, the court's decision to continue
38 the case based on a finding or substantial probability that the child
39 will be returned to the physical custody of his or her parent or legal
40 guardian is a compelling reason for determining that a hearing

1 held pursuant to Section 366.26 is not in the best interests of the
2 child.

3 The court shall inform the parent or legal guardian that if the
4 child cannot be returned home by the next permanency review
5 hearing, a proceeding pursuant to Section 366.26 may be instituted.
6 The court may not order that a hearing pursuant to Section 366.26
7 be held unless there is clear and convincing evidence that
8 reasonable services have been provided or offered to the parent or
9 legal guardian.

10 (2) *Continue the case for up to six months for a permanency*
11 *review hearing, provided that the hearing shall occur within 18*
12 *months of the date the child was originally taken from the physical*
13 *custody of his or her parent or legal guardian, if the parent has*
14 *been arrested and issued an immigration hold, has been detained*
15 *by the United States Immigration and Customs Enforcement, or*
16 *has been deported to his or her country of origin, and the court*
17 *determines either that the parent has made reasonable efforts to*
18 *regain custody of the child or that termination of parental rights*
19 *would be detrimental to the child.*

20 *The court may decide not to extend the case under this paragraph*
21 *if the child is under three years of age or is part of a sibling group*
22 *in which at least one child is under three years of age and the*
23 *siblings are, or should be, permanently placed together.*

24 (3) *A court shall not grant an extension under paragraph (2) if*
25 *any of the following factors are present:*

26 (A) *The child is an abandoned infant.*

27 (B) *The parent has been accused of murder or voluntary*
28 *manslaughter of another child of the parent, or has been accused*
29 *of felony assault against this child or another child of the parent.*

30 (C) *Any other circumstance under subdivision (b) of Section*
31 *361.5 or federal law that permits the court not to order*
32 *reunification services.*

33 ~~(2)~~

34 (4) *Order that a hearing be held within 120 days, pursuant to*
35 *Section 366.26, but only if the court does not continue the case to*
36 *the permanency planning review hearing and there is clear and*
37 *convincing evidence that reasonable services have been provided*
38 *or offered to the parents or legal guardians. On or after January 1,*
39 *2012, a hearing pursuant to Section 366.26 shall not be ordered if*
40 *the child is a nonminor dependent.*

1 ~~(3)~~

2 (5) Order that the child remain in long-term foster care, but only
3 if the court finds by clear and convincing evidence, based upon
4 the evidence already presented to it, including a recommendation
5 by the State Department of Social Services when it is acting as an
6 adoption agency in counties that are not served by a county
7 adoption agency or by a licensed county adoption agency, that
8 there is a compelling reason for determining that a hearing held
9 pursuant to Section 366.26 is not in the best interest of the child
10 because the child is not a proper subject for adoption and has no
11 one willing to accept legal guardianship. For purposes of this
12 section, a recommendation by the State Department of Social
13 Services when it is acting as an adoption agency in counties that
14 are not served by a county adoption agency or by a licensed county
15 adoption agency that adoption is not in the best interest of the child
16 shall constitute a compelling reason for the court's determination.
17 That recommendation shall be based on the present circumstances
18 of the child and shall not preclude a different recommendation at
19 a later date if the child's circumstances change. On and after
20 January 1, 2012, the nonminor dependent's legal status as an adult
21 is in and of itself a compelling reason not to hold a hearing pursuant
22 to Section 366.26. The court may order that a nonminor dependent
23 who otherwise is eligible pursuant to Section 11403 remain in a
24 planned, permanent living arrangement.

25 If the court orders that a child who is 10 years of age or older
26 remain in long-term foster care, the court shall determine whether
27 the agency has made reasonable efforts to maintain the child's
28 relationships with individuals other than the child's siblings who
29 are important to the child, consistent with the child's best interests,
30 and may make any appropriate order to ensure that those
31 relationships are maintained.

32 If the child is not returned to his or her parent or legal guardian,
33 the court shall consider, and state for the record, in-state and
34 out-of-state options for permanent placement. If the child is placed
35 out of the state, the court shall make a determination whether the
36 out-of-state placement continues to be appropriate and in the best
37 interests of the child.

38 (h) In any case in which the court orders that a hearing pursuant
39 to Section 366.26 shall be held, it shall also order the termination
40 of reunification services to the parent or legal guardian. The court

1 shall continue to permit the parent or legal guardian to visit the
2 child pending the hearing unless it finds that visitation would be
3 detrimental to the child. The court shall make any other appropriate
4 orders to enable the child to maintain relationships with individuals,
5 other than the child's siblings, who are important to the child,
6 consistent with the child's best interests. When the court orders a
7 termination of reunification services to the parent or legal guardian,
8 it shall also order that the child's caregiver receive the child's birth
9 certificate in accordance with Sections 16010.4 and 16010.5.
10 Additionally, when the court orders a termination of reunification
11 services to the parent or legal guardian, it shall order, when
12 appropriate, that a child who is 16 years of age or older receive
13 his or her birth certificate.

14 (i) (1) Whenever a court orders that a hearing pursuant to
15 Section 366.26 shall be held, it shall direct the agency supervising
16 the child and the licensed county adoption agency, or the State
17 Department of Social Services when it is acting as an adoption
18 agency in counties that are not served by a county adoption agency,
19 to prepare an assessment that shall include:

20 (A) Current search efforts for an absent parent or parents or
21 legal guardians.

22 (B) A review of the amount of and nature of any contact between
23 the child and his or her parents or legal guardians and other
24 members of his or her extended family since the time of placement.
25 Although the extended family of each child shall be reviewed on
26 a case-by-case basis, "extended family" for the purpose of this
27 subparagraph shall include, but not be limited to, the child's
28 siblings, grandparents, aunts, and uncles.

29 (C) An evaluation of the child's medical, developmental,
30 scholastic, mental, and emotional status.

31 (D) A preliminary assessment of the eligibility and commitment
32 of any identified prospective adoptive parent or legal guardian,
33 particularly the caretaker, to include a social history including
34 screening for criminal records and prior referrals for child abuse
35 or neglect, the capability to meet the child's needs, and the
36 understanding of the legal and financial rights and responsibilities
37 of adoption and guardianship. If a proposed guardian is a relative
38 of the minor, the assessment shall also consider, but need not be
39 limited to, all of the factors specified in subdivision (a) of Section
40 361.3 and in Section 361.4.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment and listing on an adoption exchange within the state or out of the state.

(G) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) ~~A~~ *Regardless of his or her immigration status*, a relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great,"

1 “great-great,” or “grand,” or the spouse of any of those persons
2 even if the marriage was terminated by death or dissolution.

3 (l) For purposes of this section, evidence of any of the following
4 circumstances may not, in and of itself, be deemed a failure to
5 provide or offer reasonable services:

6 (1) The child has been placed with a foster family that is eligible
7 to adopt a child, or has been placed in a preadoptive home.

8 (2) The case plan includes services to make and finalize a
9 permanent placement for the child if efforts to reunify fail.

10 (3) Services to make and finalize a permanent placement for
11 the child, if efforts to reunify fail, are provided concurrently with
12 services to reunify the family.

13 (m) The implementation and operation of the amendments to
14 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
15 shall be subject to appropriation through the budget process and
16 by phase, as provided in Section 366.35.

17 (n) This section shall become operative on January 1, 2014.

18 SEC. 13. Section 366.215 of the Welfare and Institutions Code
19 is amended to read:

20 366.215. With respect to a hearing held pursuant to subdivision
21 (e) of Section 366.21, if the child in question was under three years
22 of age on the date of the initial removal, or is a member of a sibling
23 group described in subparagraph (C) of paragraph (1) of
24 subdivision (a) of Section 361.5, the court, in determining whether
25 to schedule a hearing pursuant to Section 366.26, shall take into
26 account any particular barriers to a parent’s ability to maintain
27 contact with his or her child due to the parent’s incarceration~~or~~,
28 institutionalization, *detention by the United States Immigration*
29 *and Customs Enforcement, or deportation.*

30 SEC. 14. Section 366.22 of the Welfare and Institutions Code,
31 as amended by Section 18 of Chapter 559 of the Statutes of 2010,
32 is amended to read:

33 366.22. (a) When a case has been continued pursuant to
34 paragraph (1) *or* (2) of subdivision (g) of Section 366.21, the
35 permanency review hearing shall occur within 18 months after the
36 date the child was originally removed from the physical custody
37 of his or her parent or legal guardian. The court shall order the
38 return of the child to the physical custody of his or her parent or
39 legal guardian unless the court finds, by a preponderance of the
40 evidence, that the return of the child to his or her parent or legal

guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal, to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child, provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, taking into account the particular barriers of an incarcerated or institutionalized parent or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state options for the child's permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

Unless the conditions in subdivision (b) are met and the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, in consultation with the child's tribe, tribal

1 customary adoption, guardianship, or long-term foster care is the
2 most appropriate plan for the child. On and after January 1, 2012,
3 a hearing pursuant to Section 366.26 shall not be ordered if the
4 child is a nonminor dependent. However, if the court finds by clear
5 and convincing evidence, based on the evidence already presented
6 to it, including a recommendation by the State Department of
7 Social Services when it is acting as an adoption agency in counties
8 that are not served by a county adoption agency or by a licensed
9 county adoption agency, that there is a compelling reason, as
10 described in paragraph ~~(3)~~ (5) of subdivision (g) of Section 366.21,
11 for determining that a hearing held under Section 366.26 is not in
12 the best interest of the child because the child is not a proper
13 subject for adoption and has no one willing to accept legal
14 guardianship, then the court may, only under these circumstances,
15 order that the child remain in long-term foster care. On and after
16 January 1, 2012, the nonminor dependent's legal status as an adult
17 is in and of itself a compelling reason not to hold a hearing pursuant
18 to Section 366.26. The court may order that a nonminor dependent
19 who otherwise is eligible pursuant to Section 11403 remain in a
20 planned, permanent living arrangement. If the court orders that a
21 child who is 10 years of age or older remain in long-term foster
22 care, the court shall determine whether the agency has made
23 reasonable efforts to maintain the child's relationships with
24 individuals other than the child's siblings who are important to the
25 child, consistent with the child's best interests, and may make any
26 appropriate order to ensure that those relationships are maintained.
27 The hearing shall be held no later than 120 days from the date of
28 the permanency review hearing. The court shall also order
29 termination of reunification services to the parent or legal guardian.
30 The court shall continue to permit the parent or legal guardian to
31 visit the child unless it finds that visitation would be detrimental
32 to the child. The court shall determine whether reasonable services
33 have been offered or provided to the parent or legal guardian. For
34 purposes of this subdivision, evidence of any of the following
35 circumstances shall not, in and of themselves, be deemed a failure
36 to provide or offer reasonable services:

37 (1) The child has been placed with a foster family that is eligible
38 to adopt a child, or has been placed in a preadoptive home.

39 (2) The case plan includes services to make and finalize a
40 permanent placement for the child if efforts to reunify fail.

1 (3) Services to make and finalize a permanent placement for
2 the child, if efforts to reunify fail, are provided concurrently with
3 services to reunify the family.

4 (b) If the child is not returned to a parent or legal guardian at
5 the permanency review hearing and the court determines by clear
6 and convincing evidence that the best interests of the child would
7 be met by the provision of additional reunification services to a
8 parent or legal guardian who is making significant and consistent
9 progress in a court-ordered residential substance abuse treatment
10 program, or a parent recently discharged from incarceration~~or~~,
11 institutionalization, *or the custody of the United States Immigration*
12 *and Customs Enforcement, or recently returned to the United*
13 *States following deportation to his or her country of origin* and
14 making significant and consistent progress in establishing a safe
15 home for the child's return, the court may continue the case for
16 up to six months for a subsequent permanency review hearing,
17 provided that the hearing shall occur within 24 months of the date
18 the child was originally taken from the physical custody of his or
19 her parent or legal guardian. The court shall continue the case only
20 if it finds that there is a substantial probability that the child will
21 be returned to the physical custody of his or her parent or legal
22 guardian and safely maintained in the home within the extended
23 period of time or that reasonable services have not been provided
24 to the parent or legal guardian. For the purposes of this section, in
25 order to find a substantial probability that the child will be returned
26 to the physical custody of his or her parent or legal guardian and
27 safely maintained in the home within the extended period of time,
28 the court shall be required to find all of the following:

29 (1) That the parent or legal guardian has consistently and
30 regularly contacted and visited with the child.

31 (2) That the parent or legal guardian has made significant and
32 consistent progress in the prior 18 months in resolving problems
33 that led to the child's removal from the home.

34 (3) The parent or legal guardian has demonstrated the capacity
35 and ability both to complete the objectives of his or her substance
36 abuse treatment plan as evidenced by reports from a substance
37 abuse provider as applicable, or complete a treatment plan
38 postdischarge from incarceration~~or~~, institutionalization, *or*
39 *detention, or following his or her return to the United States*
40 *following deportation to his or her country of origin*, and to provide

1 for the child's safety, protection, physical and emotional
2 well-being, and special needs.

3 For purposes of this subdivision, the court's decision to continue
4 the case based on a finding or substantial probability that the child
5 will be returned to the physical custody of his or her parent or legal
6 guardian is a compelling reason for determining that a hearing
7 held pursuant to Section 366.26 is not in the best interests of the
8 child.

9 The court shall inform the parent or legal guardian that if the
10 child cannot be returned home by the subsequent permanency
11 review hearing, a proceeding pursuant to Section 366.26 may be
12 instituted. The court may not order that a hearing pursuant to
13 Section 366.26 be held unless there is clear and convincing
14 evidence that reasonable services have been provided or offered
15 to the parent or legal guardian.

16 (c) (1) Whenever a court orders that a hearing pursuant to
17 Section 366.26, including when a tribal customary adoption is
18 recommended, shall be held, it shall direct the agency supervising
19 the child and the licensed county adoption agency, or the State
20 Department of Social Services when it is acting as an adoption
21 agency in counties that are not served by a county adoption agency,
22 to prepare an assessment that shall include:

23 (A) Current search efforts for an absent parent or parents.

24 (B) A review of the amount of and nature of any contact between
25 the child and his or her parents and other members of his or her
26 extended family since the time of placement. Although the
27 extended family of each child shall be reviewed on a case-by-case
28 basis, "extended family" for the purposes of this subparagraph
29 shall include, but not be limited to, the child's siblings,
30 grandparents, aunts, and uncles.

31 (C) An evaluation of the child's medical, developmental,
32 scholastic, mental, and emotional status.

33 (D) A preliminary assessment of the eligibility and commitment
34 of any identified prospective adoptive parent or legal guardian,
35 particularly the caretaker, to include a social history including
36 screening for criminal records and prior referrals for child abuse
37 or neglect, the capability to meet the child's needs, and the
38 understanding of the legal and financial rights and responsibilities
39 of adoption and guardianship. If a proposed legal guardian is a
40 relative of the minor, the assessment shall also consider, but need

1 not be limited to, all of the factors specified in subdivision (a) of
2 Section 361.3 and Section 361.4.

3 (E) The relationship of the child to any identified prospective
4 adoptive parent or legal guardian, the duration and character of
5 the relationship, the degree of attachment of the child to the
6 prospective relative guardian or adoptive parent, the relative's or
7 adoptive parent's strong commitment to caring permanently for
8 the child, the motivation for seeking adoption or legal guardianship,
9 a statement from the child concerning placement and the adoption
10 or legal guardianship, and whether the child, if over 12 years of
11 age, has been consulted about the proposed relative guardianship
12 arrangements, unless the child's age or physical, emotional, or
13 other condition precludes his or her meaningful response, and if
14 so, a description of the condition.

15 (F) An analysis of the likelihood that the child will be adopted
16 if parental rights are terminated.

17 (G) In the case of an Indian child, in addition to subparagraphs
18 (A) to (F), inclusive, an assessment of the likelihood that the child
19 will be adopted, when, in consultation with the child's tribe, a
20 customary tribal adoption, as defined in Section 366.24, is
21 recommended. If tribal customary adoption is recommended, the
22 assessment shall include an analysis of both of the following:

23 (i) Whether tribal customary adoption would or would not be
24 detrimental to the Indian child and the reasons for reaching that
25 conclusion.

26 (ii) Whether the Indian child cannot or should not be returned
27 to the home of the Indian parent or Indian custodian and the reasons
28 for reaching that conclusion.

29 (2) (A) A relative caregiver's preference for legal guardianship
30 over adoption, if it is due to circumstances that do not include an
31 unwillingness to accept legal or financial responsibility for the
32 child, shall not constitute the sole basis for recommending removal
33 of the child from the relative caregiver for purposes of adoptive
34 placement.

35 (B) ~~A~~ *Regardless of his or her immigration status*, a relative
36 caregiver shall be given information regarding the permanency
37 options of guardianship and adoption, including the long-term
38 benefits and consequences of each option, prior to establishing
39 legal guardianship or pursuing adoption.

(d) This section shall become operative January 1, 1999. If at any hearing held pursuant to Section 366.26, a legal guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(e) As used in this section, “relative” means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(f) The implementation and operation of the amendments to subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(g) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 15. Section 366.22 of the Welfare and Institutions Code, as amended by Section 19 of Chapter 559 of the Statutes of 2010, is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) or (2) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child’s removal, to the extent that the criminal record is substantially related to the welfare of the child or the parent’s or

1 legal guardian's ability to exercise custody and control regarding
2 his or her child, provided that the parent or legal guardian agreed
3 to submit fingerprint images to obtain criminal history information
4 as part of the case plan. The failure of the parent or legal guardian
5 to participate regularly and make substantive progress in
6 court-ordered treatment programs shall be prima facie evidence
7 that return would be detrimental. In making its determination, the
8 court shall review and consider the social worker's report and
9 recommendations and the report and recommendations of any child
10 advocate appointed pursuant to Section 356.5; shall consider the
11 efforts or progress, or both, demonstrated by the parent or legal
12 guardian and the extent to which he or she availed himself or
13 herself of services provided, taking into account the particular
14 barriers of an incarcerated or institutionalized parent or legal
15 guardian's access to those court-mandated services and ability to
16 maintain contact with his or her child; and shall make appropriate
17 findings pursuant to subdivision (a) of Section 366.

18 Whether or not the child is returned to his or her parent or legal
19 guardian, the court shall specify the factual basis for its decision.
20 If the child is not returned to a parent or legal guardian, the court
21 shall specify the factual basis for its conclusion that return would
22 be detrimental. If the child is not returned to his or her parent or
23 legal guardian, the court shall consider, and state for the record,
24 in-state and out-of-state options for the child's permanent
25 placement. If the child is placed out of the state, the court shall
26 make a determination whether the out-of-state placement continues
27 to be appropriate and in the best interests of the child.

28 Unless the conditions in subdivision (b) are met and the child is
29 not returned to a parent or legal guardian at the permanency review
30 hearing, the court shall order that a hearing be held pursuant to
31 Section 366.26 in order to determine whether adoption,
32 guardianship, or long-term foster care is the most appropriate plan
33 for the child. On and after January 1, 2012, a hearing pursuant to
34 Section 366.26 shall not be ordered if the child is a nonminor
35 dependent. However, if the court finds by clear and convincing
36 evidence, based on the evidence already presented to it, including
37 a recommendation by the State Department of Social Services
38 when it is acting as an adoption agency in counties that are not
39 served by a county adoption agency or by a licensed county
40 adoption agency, that there is a compelling reason, as described

1 in paragraph~~(3)~~ (5) of subdivision (g) of Section 366.21, for
2 determining that a hearing held under Section 366.26 is not in the
3 best interest of the child because the child is not a proper subject
4 for adoption and has no one willing to accept legal guardianship,
5 then the court may, only under these circumstances, order that the
6 child remain in long-term foster care. On and after January 1, 2012,
7 the nonminor dependent's legal status as an adult is in and of itself
8 a compelling reason not to hold a hearing pursuant to Section
9 366.26. The court may order that a nonminor dependent who
10 otherwise is eligible pursuant to Section 11403 remain in a planned,
11 permanent living arrangement. If the court orders that a child who
12 is 10 years of age or older remain in long-term foster care, the
13 court shall determine whether the agency has made reasonable
14 efforts to maintain the child's relationships with individuals other
15 than the child's siblings who are important to the child, consistent
16 with the child's best interests, and may make any appropriate order
17 to ensure that those relationships are maintained. The hearing shall
18 be held no later than 120 days from the date of the permanency
19 review hearing. The court shall also order termination of
20 reunification services to the parent or legal guardian. The court
21 shall continue to permit the parent or legal guardian to visit the
22 child unless it finds that visitation would be detrimental to the
23 child. The court shall determine whether reasonable services have
24 been offered or provided to the parent or legal guardian. For
25 purposes of this subdivision, evidence of any of the following
26 circumstances shall not, in and of themselves, be deemed a failure
27 to provide or offer reasonable services:

28 (1) The child has been placed with a foster family that is eligible
29 to adopt a child, or has been placed in a preadoptive home.

30 (2) The case plan includes services to make and finalize a
31 permanent placement for the child if efforts to reunify fail.

32 (3) Services to make and finalize a permanent placement for
33 the child, if efforts to reunify fail, are provided concurrently with
34 services to reunify the family.

35 (b) If the child is not returned to a parent or legal guardian at
36 the permanency review hearing and the court determines by clear
37 and convincing evidence that the best interests of the child would
38 be met by the provision of additional reunification services to a
39 parent or legal guardian who is making significant and consistent
40 progress in a court-ordered residential substance abuse treatment

1 program, or a parent recently discharged from incarceration~~or~~,
2 institutionalization, *or the custody of the United States Immigration*
3 *and Customs Enforcement, or recently returned to the United*
4 *States following deportation to his or her country of origin* and
5 making significant and consistent progress in establishing a safe
6 home for the child's return, the court may continue the case for
7 up to six months for a subsequent permanency review hearing,
8 provided that the hearing shall occur within 24 months of the date
9 the child was originally taken from the physical custody of his or
10 her parent or legal guardian. The court shall continue the case only
11 if it finds that there is a substantial probability that the child will
12 be returned to the physical custody of his or her parent or legal
13 guardian and safely maintained in the home within the extended
14 period of time or that reasonable services have not been provided
15 to the parent or legal guardian. For the purposes of this section, in
16 order to find a substantial probability that the child will be returned
17 to the physical custody of his or her parent or legal guardian and
18 safely maintained in the home within the extended period of time,
19 the court shall be required to find all of the following:

20 (1) That the parent or legal guardian has consistently and
21 regularly contacted and visited with the child.

22 (2) That the parent or legal guardian has made significant and
23 consistent progress in the prior 18 months in resolving problems
24 that led to the child's removal from the home.

25 (3) The parent or legal guardian has demonstrated the capacity
26 and ability both to complete the objectives of his or her substance
27 abuse treatment plan as evidenced by reports from a substance
28 abuse provider as applicable, or complete a treatment plan
29 postdischarge from incarceration~~or~~, institutionalization, *detention,*
30 *or his or her return to the United States following deportation to*
31 *his or her country of origin*, and to provide for the child's safety,
32 protection, physical and emotional well-being, and special needs.

33 For purposes of this subdivision, the court's decision to continue
34 the case based on a finding or substantial probability that the child
35 will be returned to the physical custody of his or her parent or legal
36 guardian is a compelling reason for determining that a hearing
37 held pursuant to Section 366.26 is not in the best interests of the
38 child.

39 The court shall inform the parent or legal guardian that if the
40 child cannot be returned home by the subsequent permanency

1 review hearing, a proceeding pursuant to Section 366.26 may be
2 instituted. The court may not order that a hearing pursuant to
3 Section 366.26 be held unless there is clear and convincing
4 evidence that reasonable services have been provided or offered
5 to the parent or legal guardian.

6 (c) (1) Whenever a court orders that a hearing pursuant to
7 Section 366.26 shall be held, it shall direct the agency supervising
8 the child and the licensed county adoption agency, or the State
9 Department of Social Services when it is acting as an adoption
10 agency in counties that are not served by a county adoption agency,
11 to prepare an assessment that shall include:

12 (A) Current search efforts for an absent parent or parents.

13 (B) A review of the amount of and nature of any contact between
14 the child and his or her parents and other members of his or her
15 extended family since the time of placement. Although the
16 extended family of each child shall be reviewed on a case-by-case
17 basis, “extended family” for the purposes of this subparagraph
18 shall include, but not be limited to, the child’s siblings,
19 grandparents, aunts, and uncles.

20 (C) An evaluation of the child’s medical, developmental,
21 scholastic, mental, and emotional status.

22 (D) A preliminary assessment of the eligibility and commitment
23 of any identified prospective adoptive parent or legal guardian,
24 particularly the caretaker, to include a social history including
25 screening for criminal records and prior referrals for child abuse
26 or neglect, the capability to meet the child’s needs, and the
27 understanding of the legal and financial rights and responsibilities
28 of adoption and guardianship. If a proposed legal guardian is a
29 relative of the minor, the assessment shall also consider, but need
30 not be limited to, all of the factors specified in subdivision (a) of
31 Section 361.3 and Section 361.4.

32 (E) The relationship of the child to any identified prospective
33 adoptive parent or legal guardian, the duration and character of
34 the relationship, the degree of attachment of the child to the
35 prospective relative guardian or adoptive parent, the relative’s or
36 adoptive parent’s strong commitment to caring permanently for
37 the child, the motivation for seeking adoption or legal guardianship,
38 a statement from the child concerning placement and the adoption
39 or legal guardianship, and whether the child, if over 12 years of
40 age, has been consulted about the proposed relative guardianship

1 arrangements, unless the child's age or physical, emotional, or
2 other condition precludes his or her meaningful response, and if
3 so, a description of the condition.

4 (F) An analysis of the likelihood that the child will be adopted
5 if parental rights are terminated.

6 (2) (A) A relative caregiver's preference for legal guardianship
7 over adoption, if it is due to circumstances that do not include an
8 unwillingness to accept legal or financial responsibility for the
9 child, shall not constitute the sole basis for recommending removal
10 of the child from the relative caregiver for purposes of adoptive
11 placement.

12 (B) ~~A~~ *Regardless of his or her immigration status*, a relative
13 caregiver shall be given information regarding the permanency
14 options of guardianship and adoption, including the long-term
15 benefits and consequences of each option, prior to establishing
16 legal guardianship or pursuing adoption.

17 (d) This section shall become operative January 1, 1999. If at
18 any hearing held pursuant to Section 366.26, a legal guardianship
19 is established for the minor with an approved relative caregiver,
20 and juvenile court dependency is subsequently dismissed, the minor
21 shall be eligible for aid under the Kin-GAP Program, as provided
22 for in Article 4.5 (commencing with Section 11360) or Article 4.7
23 (commencing with Section 11385), as applicable, of Chapter 2 of
24 Part 3 of Division 9.

25 (e) As used in this section, "relative" means an adult who is
26 related to the child by blood, adoption, or affinity within the fifth
27 degree of kinship, including stepparents, stepsiblings, and all
28 relatives whose status is preceded by the words "great,"
29 "great-great," or "grand," or the spouse of any of those persons
30 even if the marriage was terminated by death or dissolution.

31 (f) The implementation and operation of the amendments to
32 subdivision (a) enacted at the 2005–06 Regular Session shall be
33 subject to appropriation through the budget process and by phase,
34 as provided in Section 366.35.

35 (g) This section shall become operative on January 1, 2014.

36 SEC. 16. Section 366.25 of the Welfare and Institutions Code,
37 as amended by Section 20 of Chapter 559 of the Statutes of 2010,
38 is amended to read:

39 366.25. (a) (1) When a case has been continued pursuant to
40 subdivision (b) of Section 366.22, the subsequent permanency

1 review hearing shall occur within 24 months after the date the
2 child was originally removed from the physical custody of his or
3 her parent or legal guardian. The court shall order the return of the
4 child to the physical custody of his or her parent or legal guardian
5 unless the court finds, by a preponderance of the evidence, that
6 the return of the child to his or her parent or legal guardian would
7 create a substantial risk of detriment to the safety, protection, or
8 physical or emotional well-being of the child. The social worker
9 shall have the burden of establishing that detriment. At the
10 subsequent permanency review hearing, the court shall consider
11 the criminal history, obtained pursuant to paragraph (1) of
12 subdivision (f) of Section 16504.5, of the parent or legal guardian
13 subsequent to the child's removal to the extent that the criminal
14 record is substantially related to the welfare of the child or parent
15 or legal guardian's ability to exercise custody and control regarding
16 his or her child provided that the parent or legal guardian agreed
17 to submit fingerprint images to obtain criminal history information
18 as part of the case plan. The failure of the parent or legal guardian
19 to participate regularly and make substantive progress in
20 court-ordered treatment programs shall be prima facie evidence
21 that return would be detrimental. In making its determination, the
22 court shall review and consider the social worker's report and
23 recommendations and the report and recommendations of any child
24 advocate appointed pursuant to Section 356.5; shall consider the
25 efforts or progress, or both, demonstrated by the parent or legal
26 guardian and the extent to which he or she availed himself or
27 herself of services provided; and shall make appropriate findings
28 pursuant to subdivision (a) of Section 366.

29 (2) Whether or not the child is returned to his or her parent or
30 legal guardian, the court shall specify the factual basis for its
31 decision. If the child is not returned to a parent or legal guardian,
32 the court shall specify the factual basis for its conclusion that return
33 would be detrimental. If the child is not returned to his or her
34 parents or legal guardian, the court shall consider and state for the
35 record, in-state and out-of-state options for the child's permanent
36 placement. If the child is placed out of the state, the court shall
37 make a determination whether the out-of-state placement continues
38 to be appropriate and in best interests of the child.

39 (3) If the child is not returned to a parent or legal guardian at
40 the subsequent permanency review hearing, the court shall order

1 that a hearing be held pursuant to Section 366.26 in order to
2 determine whether adoption, or, in the case of an Indian child,
3 tribal customary adoption, guardianship, or long-term foster care
4 is the most appropriate plan for the child. On and after January 1,
5 2012, a hearing pursuant to Section 366.26 shall not be ordered if
6 the child is a nonminor dependent. However, if the court finds by
7 clear and convincing evidence, based on the evidence already
8 presented to it, including a recommendation by the State
9 Department of Social Services when it is acting as an adoption
10 agency in counties that are not served by a county adoption agency
11 or by a licensed county adoption agency, that there is a compelling
12 reason, as described in paragraph ~~(3)~~ (5) of subdivision (g) of
13 Section 366.21, for determining that a hearing held under Section
14 366.26 is not in the best interest of the child because the child is
15 not a proper subject for adoption or, in the case of an Indian child,
16 tribal customary adoption, and has no one willing to accept legal
17 guardianship, then the court may, only under these circumstances,
18 order that the child remain in long-term foster care. On and after
19 January 1, 2012, the nonminor dependent's legal status as an adult
20 is in and of itself a compelling reason not to hold a hearing pursuant
21 to Section 366.26. The court may order that a nonminor dependent
22 who otherwise is eligible pursuant to Section 11403 remain in a
23 planned, permanent living arrangement. If the court orders that a
24 child who is 10 years of age or older remain in long-term foster
25 care, the court shall determine whether the agency has made
26 reasonable efforts to maintain the child's relationships with
27 individuals other than the child's siblings who are important to the
28 child, consistent with the child's best interests, and may make any
29 appropriate order to ensure that those relationships are maintained.
30 The hearing shall be held no later than 120 days from the date of
31 the subsequent permanency review hearing. The court shall also
32 order termination of reunification services to the parent or legal
33 guardian. The court shall continue to permit the parent or legal
34 guardian to visit the child unless it finds that visitation would be
35 detrimental to the child. The court shall determine whether
36 reasonable services have been offered or provided to the parent or
37 legal guardian. For purposes of this subdivision, evidence of any
38 of the following circumstances shall not, in and of themselves, be
39 deemed a failure to provide or offer reasonable services:

1 (A) The child has been placed with a foster family that is eligible
2 to adopt a child, or has been placed in a preadoptive home.

3 (B) The case plan includes services to make and finalize a
4 permanent placement for the child if efforts to reunify fail.

5 (C) Services to make and finalize a permanent placement for
6 the child, if efforts to reunify fail, are provided concurrently with
7 services to reunify the family.

8 (b) (1) Whenever a court orders that a hearing pursuant to
9 Section 366.26 shall be held, it shall direct the agency supervising
10 the child and the licensed county adoption agency, or the State
11 Department of Social Services when it is acting as an adoption
12 agency in counties that are not served by a county adoption agency,
13 to prepare an assessment that shall include:

14 (A) Current search efforts for an absent parent or parents.

15 (B) A review of the amount of, and nature of, any contact
16 between the child and his or her parents and other members of his
17 or her extended family since the time of placement. Although the
18 extended family of each child shall be reviewed on a case-by-case
19 basis, “extended family” for the purposes of this paragraph shall
20 include, but not be limited to, the child’s siblings, grandparents,
21 aunts, and uncles.

22 (C) An evaluation of the child’s medical, developmental,
23 scholastic, mental, and emotional status.

24 (D) A preliminary assessment of the eligibility and commitment
25 of any identified prospective adoptive parent or legal guardian,
26 including a prospective tribal customary adoptive parent,
27 particularly the caretaker, to include a social history including
28 screening for criminal records and prior referrals for child abuse
29 or neglect, the capability to meet the child’s needs, and the
30 understanding of the legal and financial rights and responsibilities
31 of adoption and guardianship. If a proposed legal guardian is a
32 relative of the minor, the assessment shall also consider, but need
33 not be limited to, all of the factors specified in subdivision (a) of
34 Section 361.3 and in Section 361.4.

35 (E) The relationship of the child to any identified prospective
36 adoptive parent or legal guardian, including a prospective tribal
37 customary adoptive parent, the duration and character of the
38 relationship, the degree of attachment of the child to the prospective
39 relative guardian or adoptive parent, the relative’s or adoptive
40 parent’s strong commitment to caring permanently for the child,

1 the motivation for seeking adoption or legal guardianship, a
2 statement from the child concerning placement and the adoption
3 or legal guardianship, and whether the child, if over 12 years of
4 age, has been consulted about the proposed relative guardianship
5 arrangements, unless the child's age or physical, emotional, or
6 other condition precludes his or her meaningful response, and if
7 so, a description of the condition.

8 (F) An analysis of the likelihood that the child will be adopted
9 if parental rights are terminated.

10 (G) In the case of an Indian child, in addition to subparagraphs
11 (A) to (F), inclusive, an assessment of the likelihood that the child
12 will be adopted, when, in consultation with the child's tribe, a
13 customary tribal adoption, as defined in Section 366.24, is
14 recommended. If tribal customary adoption is recommended, the
15 assessment shall include an analysis of both of the following:

16 (i) Whether tribal customary adoption would or would not be
17 detrimental to the Indian child and the reasons for reaching that
18 conclusion.

19 (ii) Whether the Indian child cannot or should not be returned
20 to the home of the Indian parent or Indian custodian and the reasons
21 for reaching that conclusion.

22 (2) (A) A relative caregiver's preference for legal guardianship
23 over adoption, if it is due to circumstances that do not include an
24 unwillingness to accept legal or financial responsibility for the
25 child, shall not constitute the sole basis for recommending removal
26 of the child from the relative caregiver for purposes of adoptive
27 placement.

28 (B) ~~A~~ *Regardless of his or her immigration status*, a relative
29 caregiver shall be given information regarding the permanency
30 options of guardianship and adoption, including the long-term
31 benefits and consequences of each option, prior to establishing
32 legal guardianship or pursuing adoption.

33 (c) If, at any hearing held pursuant to Section 366.26, a
34 guardianship is established for the minor with an approved relative
35 caregiver, and juvenile court dependency is subsequently
36 dismissed, the minor shall be eligible for aid under the Kin-GAP
37 Program, as provided for in Article 4.5 (commencing with Section
38 11360) or Article 4.7 (commencing with Section 11385), as
39 applicable, of Chapter 2 of Part 3 of Division 9.

1 (d) As used in this section, “relative” means an adult who is
2 related to the minor by blood, adoption, or affinity within the fifth
3 degree of kinship, including stepparents, stepsiblings, and all
4 relatives whose status is preceded by the words “great,”
5 “great-great,” or “grand,” or the spouse of any of those persons
6 even if the marriage was terminated by death or dissolution.

7 (e) The implementation and operation of subdivision (a) enacted
8 at the 2005–06 Regular Session shall be subject to appropriation
9 through the budget process and by phase, as provided in Section
10 366.35.

11 (f) This section shall remain in effect only until January 1, 2014,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2014, deletes or extends that date.

14 SEC. 17. Section 366.25 of the Welfare and Institutions Code,
15 as amended by Section 21 of Chapter 559 of the Statutes of 2010,
16 is amended to read:

17 366.25. (a) (1) When a case has been continued pursuant to
18 subdivision (b) of Section 366.22, the subsequent permanency
19 review hearing shall occur within 24 months after the date the
20 child was originally removed from the physical custody of his or
21 her parent or legal guardian. The court shall order the return of the
22 child to the physical custody of his or her parent or legal guardian
23 unless the court finds, by a preponderance of the evidence, that
24 the return of the child to his or her parent or legal guardian would
25 create a substantial risk of detriment to the safety, protection, or
26 physical or emotional well-being of the child. The social worker
27 shall have the burden of establishing that detriment. At the
28 subsequent permanency review hearing, the court shall consider
29 the criminal history, obtained pursuant to paragraph (1) of
30 subdivision (f) of Section 16504.5, of the parent or legal guardian
31 subsequent to the child’s removal to the extent that the criminal
32 record is substantially related to the welfare of the child or parent
33 or legal guardian’s ability to exercise custody and control regarding
34 his or her child provided that the parent or legal guardian agreed
35 to submit fingerprint images to obtain criminal history information
36 as part of the case plan. The failure of the parent or legal guardian
37 to participate regularly and make substantive progress in
38 court-ordered treatment programs shall be prima facie evidence
39 that return would be detrimental. In making its determination, the
40 court shall review and consider the social worker’s report and

1 recommendations and the report and recommendations of any child
2 advocate appointed pursuant to Section 356.5; shall consider the
3 efforts or progress, or both, demonstrated by the parent or legal
4 guardian and the extent to which he or she availed himself or
5 herself of services provided; and shall make appropriate findings
6 pursuant to subdivision (a) of Section 366.

7 (2) Whether or not the child is returned to his or her parent or
8 legal guardian, the court shall specify the factual basis for its
9 decision. If the child is not returned to a parent or legal guardian,
10 the court shall specify the factual basis for its conclusion that return
11 would be detrimental. If the child is not returned to his or her
12 parents or legal guardian, the court shall consider and state for the
13 record, in-state and out-of-state options for the child's permanent
14 placement. If the child is placed out of the state, the court shall
15 make a determination whether the out-of-state placement continues
16 to be appropriate and in best interests of the child.

17 (3) If the child is not returned to a parent or legal guardian at
18 the subsequent permanency review hearing, the court shall order
19 that a hearing be held pursuant to Section 366.26 in order to
20 determine whether adoption, guardianship, or long-term foster
21 care is the most appropriate plan for the child. On and after January
22 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
23 if the child is a nonminor dependent. However, if the court finds
24 by clear and convincing evidence, based on the evidence already
25 presented to it, including a recommendation by the State
26 Department of Social Services when it is acting as an adoption
27 agency in counties that are not served by a county adoption agency
28 or by a licensed county adoption agency, that there is a compelling
29 reason, as described in paragraph ~~(3)~~ (5) of subdivision (g) of
30 Section 366.21, for determining that a hearing held under Section
31 366.26 is not in the best interest of the child because the child is
32 not a proper subject for adoption and has no one willing to accept
33 legal guardianship, then the court may, only under these
34 circumstances, order that the child remain in long-term foster care.
35 On and after January 1, 2012, the nonminor dependent's legal
36 status as an adult is in and of itself a compelling reason not to hold
37 a hearing pursuant to Section 366.26. The court may order that a
38 nonminor dependent who otherwise is eligible pursuant to Section
39 11403 remain in a planned, permanent living arrangement. If the
40 court orders that a child who is 10 years of age or older remain in

1 long-term foster care, the court shall determine whether the agency
2 has made reasonable efforts to maintain the child's relationships
3 with individuals other than the child's siblings who are important
4 to the child, consistent with the child's best interests, and may
5 make any appropriate order to ensure that those relationships are
6 maintained. The hearing shall be held no later than 120 days from
7 the date of the subsequent permanency review hearing. The court
8 shall also order termination of reunification services to the parent
9 or legal guardian. The court shall continue to permit the parent or
10 legal guardian to visit the child unless it finds that visitation would
11 be detrimental to the child. The court shall determine whether
12 reasonable services have been offered or provided to the parent or
13 legal guardian. For purposes of this subdivision, evidence of any
14 of the following circumstances shall not, in and of themselves, be
15 deemed a failure to provide or offer reasonable services:

16 (A) The child has been placed with a foster family that is eligible
17 to adopt a child, or has been placed in a preadoptive home.

18 (B) The case plan includes services to make and finalize a
19 permanent placement for the child if efforts to reunify fail.

20 (C) Services to make and finalize a permanent placement for
21 the child, if efforts to reunify fail, are provided concurrently with
22 services to reunify the family.

23 (b) (1) Whenever a court orders that a hearing pursuant to
24 Section 366.26 shall be held, it shall direct the agency supervising
25 the child and the licensed county adoption agency, or the State
26 Department of Social Services when it is acting as an adoption
27 agency in counties that are not served by a county adoption agency,
28 to prepare an assessment that shall include:

29 (A) Current search efforts for an absent parent or parents.

30 (B) A review of the amount of, and nature of, any contact
31 between the child and his or her parents and other members of his
32 or her extended family since the time of placement. Although the
33 extended family of each child shall be reviewed on a case-by-case
34 basis, "extended family" for the purposes of this paragraph shall
35 include, but not be limited to, the child's siblings, grandparents,
36 aunts, and uncles.

37 (C) An evaluation of the child's medical, developmental,
38 scholastic, mental, and emotional status.

39 (D) A preliminary assessment of the eligibility and commitment
40 of any identified prospective adoptive parent or legal guardian,

1 particularly the caretaker, to include a social history including
2 screening for criminal records and prior referrals for child abuse
3 or neglect, the capability to meet the child's needs, and the
4 understanding of the legal and financial rights and responsibilities
5 of adoption and guardianship. If a proposed legal guardian is a
6 relative of the minor, the assessment shall also consider, but need
7 not be limited to, all of the factors specified in subdivision (a) of
8 Section 361.3 and in Section 361.4.

9 (E) The relationship of the child to any identified prospective
10 adoptive parent or legal guardian, the duration and character of
11 the relationship, the degree of attachment of the child to the
12 prospective relative guardian or adoptive parent, the relative's or
13 adoptive parent's strong commitment to caring permanently for
14 the child, the motivation for seeking adoption or legal guardianship,
15 a statement from the child concerning placement and the adoption
16 or legal guardianship, and whether the child, if over 12 years of
17 age, has been consulted about the proposed relative guardianship
18 arrangements, unless the child's age or physical, emotional, or
19 other condition precludes his or her meaningful response, and if
20 so, a description of the condition.

21 (F) An analysis of the likelihood that the child will be adopted
22 if parental rights are terminated.

23 (2) (A) A relative caregiver's preference for legal guardianship
24 over adoption, if it is due to circumstances that do not include an
25 unwillingness to accept legal or financial responsibility for the
26 child, shall not constitute the sole basis for recommending removal
27 of the child from the relative caregiver for purposes of adoptive
28 placement.

29 (B) ~~A~~ *Regardless of his or her immigration status*, a relative
30 caregiver shall be given information regarding the permanency
31 options of guardianship and adoption, including the long-term
32 benefits and consequences of each option, prior to establishing
33 legal guardianship or pursuing adoption.

34 (c) If, at any hearing held pursuant to Section 366.26, a
35 guardianship is established for the minor with an approved relative
36 caregiver, and juvenile court dependency is subsequently
37 dismissed, the minor shall be eligible for aid under the Kin-GAP
38 Program, as provided for in Article 4.5 (commencing with Section
39 11360) or Article 4.7 (commencing with Section 11385), as
40 applicable, of Chapter 2 of Part 3 of Division 9.

1 (d) As used in this section, “relative” means an adult who is
2 related to the minor by blood, adoption, or affinity within the fifth
3 degree of kinship, including stepparents, stepsiblings, and all
4 relatives whose status is preceded by the words “great,”
5 “great-great,” or “grand,” or the spouse of any of those persons
6 even if the marriage was terminated by death or dissolution.

7 (e) The implementation and operation of subdivision (a) enacted
8 at the 2005–06 Regular Session shall be subject to appropriation
9 through the budget process and by phase, as provided in Section
10 366.35.

11 (f) This section shall become operative on January 1, 2014.

12 SEC. 18. Section 366.27 of the Welfare and Institutions Code
13 is amended to read:

14 366.27. (a) If a court, pursuant to paragraph—(3) (5) of
15 subdivision (g) of Section 366.21, Section 366.22, Section 366.25,
16 or Section 366.26, orders the placement of a minor in a planned
17 permanent living arrangement with a relative, the court may
18 authorize the relative to provide the same legal consent for the
19 minor’s medical, surgical, and dental care as the custodial parent
20 of the minor.

21 (b) If a court orders the placement of a minor in a planned
22 permanent living arrangement with a foster parent, relative
23 caretaker, or nonrelative extended family member as defined in
24 Section 362.7, the court may limit the right of the minor’s parent
25 or guardian to make educational decisions on the minor’s behalf,
26 so that the foster parent, relative caretaker, or nonrelative extended
27 family member may exercise the educational consent duties
28 pursuant to Section 56055 of the Education Code.

29 (c) If a court orders the placement of a minor in a planned
30 permanent living arrangement, for purposes of this section, a foster
31 parent shall include a person, relative caretaker, or a nonrelative
32 extended family member as defined in Section 362.7, who has
33 been licensed or approved by the county welfare department,
34 county probation department, or the State Department of Social
35 Services, or has been designated by the court as a specified
36 placement.

37 SEC. 19. Section 388 of the Welfare and Institutions Code is
38 amended to read:

39 388. (a) Any parent or other person having an interest in a
40 child who is a dependent child of the juvenile court or the child

1 himself or herself through a properly appointed guardian may,
2 upon grounds of change of circumstance or new evidence, petition
3 the court in the same action in which the child was found to be a
4 dependent child of the juvenile court or in which a guardianship
5 was ordered pursuant to Section 360 for a hearing to change,
6 modify, or set aside any order of court previously made or to
7 terminate the jurisdiction of the court. The petition shall be verified
8 and, if made by a person other than the child, shall state the
9 petitioner's relationship to or interest in the child and shall set forth
10 in concise language any change of circumstance or new evidence
11 that is alleged to require the change of order or termination of
12 jurisdiction.

13 (b) Any person, including a child who is a dependent of the
14 juvenile court, may petition the court to assert a relationship as a
15 sibling related by blood, adoption, or affinity through a common
16 legal or biological parent to a child who is, or is the subject of a
17 petition for adjudication as, a dependent of the juvenile court, and
18 may request visitation with the dependent child, placement with
19 or near the dependent child, or consideration when determining
20 or implementing a case plan or permanent plan for the dependent
21 child or make any other request for an order which may be shown
22 to be in the best interest of the dependent child. The court may
23 appoint a guardian ad litem to file the petition for the dependent
24 child asserting the sibling relationship if the court determines that
25 the appointment is necessary for the best interests of the dependent
26 child. The petition shall be verified and shall set forth the
27 following:

28 (1) Through which parent he or she is related to the dependent
29 child.

30 (2) Whether he or she is related to the dependent child by blood,
31 adoption, or affinity.

32 (3) The request or order that the petitioner is seeking.

33 (4) Why that request or order is in the best interest of the
34 dependent child.

35 (c) (1) Any party, including a child who is a dependent of the
36 juvenile court, may petition the court, prior to the hearing set
37 pursuant to subdivision (f) of Section 366.21 for a child described
38 by subparagraph (A) of paragraph (1) of subdivision (a) of Section
39 361.5, or prior to the hearing set pursuant to subdivision (e) of
40 Section 366.21 for a child described by subparagraph (B) or (C)

1 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
2 court-ordered reunification services provided under subdivision
3 (a) of Section 361.5 only if one of the following conditions exists:

4 (A) It appears that a change of circumstance or new evidence
5 exists that satisfies a condition set forth in subdivision (b) or (e)
6 of Section 361.5 justifying termination of court-ordered
7 reunification services.

8 (B) The action or inaction of the parent or guardian creates a
9 substantial likelihood that reunification will not occur, including,
10 but not limited to, the parent or guardian's failure to visit the child,
11 or the failure of the parent or guardian to participate regularly and
12 make substantive progress in a court-ordered treatment plan.

13 (2) In determining whether the parent or guardian has failed to
14 visit the child or participate regularly or make progress in the
15 treatment plan, the court shall consider factors including, but not
16 limited to, the—parent parent's or guardian's incarceration,
17 institutionalization, *detention by the United States Immigration*
18 *and Customs Enforcement*, *deportation*, or participation in a
19 court-ordered residential substance abuse treatment program.

20 (3) The court shall terminate reunification services during the
21 above-described time periods only upon a finding by a
22 preponderance of evidence that reasonable services have been
23 offered or provided, and upon a finding of clear and convincing
24 evidence that one of the conditions in subparagraph (A) or (B) of
25 paragraph (1) exists.

26 (4) If the court terminates reunification services, it shall order
27 that a hearing pursuant to Section 366.26 be held within 120 days.

28 (d) If it appears that the best interests of the child may be
29 promoted by the proposed change of order, recognition of a sibling
30 relationship, termination of jurisdiction, or clear and convincing
31 evidence supports revocation or termination of court-ordered
32 reunification services, the court shall order that a hearing be held
33 and shall give prior notice, or cause prior notice to be given, to the
34 persons and by the means prescribed by Section 386, and, in those
35 instances in which the means of giving notice is not prescribed by
36 those sections, then by means the court prescribes.

37 (e) (1) On and after January 1, 2012, a nonminor who attained
38 18 years of age while subject to an order for foster care placement
39 and, commencing January 1, 2012, who has not attained 19 years
40 of age, or, commencing January 1, 2013, 20 years of age, or,

1 commencing January 1, 2014, 21 years of age, for whom the court
2 has dismissed dependency jurisdiction pursuant to Section 391, or
3 delinquency jurisdiction pursuant to Section 607.2 or transition
4 jurisdiction pursuant to Section 452, but has retained general
5 jurisdiction under subdivision (b) of Section 303, or the county
6 child welfare services, probation department, or tribal placing
7 agency on behalf of the nonminor, may petition the court in the
8 same action in which the child was found to be a dependent or
9 delinquent child of the juvenile court, for a hearing to resume the
10 dependency jurisdiction over a former dependent or to assume or
11 resume transition jurisdiction over a former delinquent ward
12 pursuant to Section 450. The petition shall be filed within the
13 period that the nonminor is of the age described in this paragraph.
14 If the nonminor has completed the voluntary reentry agreement,
15 as described in subdivision (z) of Section 11400, with the placing
16 agency, the agency shall file the petition on behalf of the nonminor
17 within 15 judicial days of the date the agreement was signed unless
18 the nonminor elects to file the petition at an earlier date.

19 (2) (A) The petition to resume jurisdiction may be filed in the
20 juvenile court that retains general jurisdiction under subdivision
21 (b) of Section 303, or the petition may be submitted to the juvenile
22 court in the county where the youth resides and forwarded to the
23 juvenile court that retained general jurisdiction and filed with that
24 court. The juvenile court having general jurisdiction under Section
25 303 shall receive the petition from the court where the petition
26 was submitted within five court days of its submission, if the
27 petition is filed in the county of residence. The juvenile court that
28 retained general jurisdiction shall order that a hearing be held
29 within 15 judicial days of the date the petition was filed if there is
30 a prima facie showing that the nonminor satisfies the following
31 criteria:

32 (i) He or she was previously under juvenile court jurisdiction,
33 subject to an order for foster care placement when he or she
34 attained 18 years of age, and has not attained the age limits
35 described in paragraph (1).

36 (ii) He or she intends to satisfy at least one of the conditions set
37 forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
38 Section 11403.

39 (iii) He or she wants assistance either in maintaining or securing
40 appropriate supervised placement, or is in need of immediate

1 placement and agrees to supervised placement pursuant to the
2 voluntary reentry agreement as described in subdivision (z) of
3 Section 11400.

4 (B) Upon ordering a hearing, the court shall give prior notice,
5 or cause prior notice to be given, to the persons and by the means
6 prescribed by Section 386, except that notice to parents or former
7 guardians shall not be provided unless the nonminor requests, in
8 writing on the face of the petition, notice to the parents or former
9 guardians.

10 (3) The Judicial Council, by January 1, 2012, shall adopt rules
11 of court to allow for telephonic appearances by nonminor former
12 dependents or delinquents in these proceedings, and for telephonic
13 appearances by nonminor dependents in any proceeding in which
14 the nonminor dependent is a party, and he or she declines to appear
15 and elects a telephonic appearance.

16 (4) Prior to the hearing on a petition to resume dependency
17 jurisdiction or to assume or resume transition jurisdiction, the court
18 shall order the county child welfare or probation department or
19 Indian tribe that has entered into an agreement pursuant to Section
20 10553.1 to prepare a report for the court addressing whether the
21 nonminor intends to satisfy at least one of the criteria set forth in
22 subdivision (b) of Section 11403. When the recommendation is
23 for the nonminor dependent to be placed in a setting where minor
24 dependents also reside, the results of a background check of the
25 petitioning nonminor conducted pursuant to Section 16504.5, used
26 by the placing agency to determine appropriate placement options
27 for the nonminor. The existence of a criminal conviction is not a
28 bar to eligibility for reentry or resumption of dependency
29 jurisdiction or the assumption or resumption of transition
30 jurisdiction over a nonminor.

31 (5) (A) The court shall resume dependency jurisdiction over a
32 former dependent or assume or resume transition jurisdiction over
33 a former delinquent ward pursuant to Section 450, and order that
34 the nonminor's placement and care be under the responsibility of
35 the county child welfare services department, the probation
36 department, or tribe, if the court finds all of the following:

37 (i) The nonminor was previously under juvenile court
38 jurisdiction subject to an order for foster care placement when he
39 or she attained 18 years of age.

1 (ii) The nonminor has not attained the age limits described in
2 paragraph (1).

3 (iii) Reentry and remaining in foster care are in the nonminor's
4 best interests.

5 (iv) The nonminor intends to satisfy, and agrees to satisfy, at
6 least one of the criteria set forth in paragraphs (1) to (5), inclusive,
7 of subdivision (b) of Section 11403, or demonstrates his or her
8 agreement to satisfy the criteria by signing the voluntary reentry
9 agreement as described in subdivision (z) of Section 11400.

10 (B) The agency made responsible for the nonminor's placement
11 and care pursuant to subparagraph (A) shall prepare a new
12 transitional independent living case plan and submit it to the court
13 within 60 days of the resumption of dependency jurisdiction or
14 assumption or resumption of transition jurisdiction.

15 (C) In no event shall the court grant a continuance that would
16 cause the hearing to resume dependency jurisdiction or to assume
17 or resume transition jurisdiction to be completed more than 120
18 days after the date the petition was submitted.

19 SEC. 20. Section 10609.95 is added to the Welfare and
20 Institutions Code, to read:

21 10609.95. (a) The State Department of Social Services shall
22 provide guidance to counties and municipalities to establish
23 memoranda of understanding with appropriate foreign consulates
24 for child custody cases in which a parent has been arrested and
25 issued an immigration hold, has been detained by the United States
26 Immigration and Customs Enforcement, or has been deported to
27 his or her country of origin.

28 (b) The memoranda of understanding shall include procedures
29 for contacting a foreign consulate in a child custody case, accessing
30 documentation for the child, locating a detained parent, facilitating
31 family reunification once a parent has been deported to his or her
32 country of origin, and communicating with relevant departments
33 and services in the parent's country of origin.

34 (c) The memoranda of understanding shall require a county or
35 municipality to contact a foreign consulate for assistance in
36 obtaining necessary documents if a child in a child custody case
37 is eligible for special immigrant juvenile status under Section
38 1101(a)(27)(J) of Title 8 of the United States Code.

39 SEC. 21. Section 10609.97 is added to the Welfare and
40 Institutions Code, to read:

1 10609.97. (a) The State Department of Social Services shall
2 provide guidelines to counties and municipalities detailing
3 procedures for social workers to assist children in child custody
4 and dependency cases who are eligible for special immigrant
5 juvenile status under Section 1101(a)(27)(J) of Title 8 of the United
6 States Code.

7 (b) The guidelines shall include procedures for assisting eligible
8 children in applying for special immigrant juvenile status before
9 the children reach 21 years of age.

10 SEC. 22. Section 16501.1 of the Welfare and Institutions Code
11 is amended to read:

12 16501.1. (a) (1) The Legislature finds and declares that the
13 foundation and central unifying tool in child welfare services is
14 the case plan.

15 (2) The Legislature further finds and declares that a case plan
16 ensures that the child receives protection and safe and proper care
17 and case management, and that services are provided to the child
18 and parents or other caretakers, as appropriate, in order to improve
19 conditions in the parent's home, to facilitate the safe return of the
20 child to a safe home or the permanent placement of the child, and
21 to address the needs of the child while in foster care.

22 (b) (1) A case plan shall be based upon the principles of this
23 section and shall document that a preplacement assessment of the
24 service needs of the child and family, and preplacement preventive
25 services, have been provided, and that reasonable efforts to prevent
26 out-of-home placement have been made.

27 (2) In determining the reasonable services to be offered or
28 provided, the child's health and safety shall be the paramount
29 concerns.

30 (3) Upon a determination pursuant to paragraph (1) of
31 subdivision (e) of Section 361.5 that reasonable services will be
32 offered to a parent who is incarcerated in a county jail or state
33 prison, *detained by the United States Immigration and Customs*
34 *Enforcement, or deported to his or her country of origin*, the case
35 plan shall include information, to the extent possible, about a
36 parent's incarceration in a county jail or the state prison, *detention*
37 *by the United States Immigration and Customs Enforcement, or*
38 *deportation* during the time that a minor child of that parent is
39 involved in dependency care.

1 (4) Reasonable services shall be offered or provided to make it
2 possible for a child to return to a safe home environment, unless,
3 pursuant to subdivisions (b) and (e) of Section 361.5, the court
4 determines that reunification services shall not be provided.

5 (5) If reasonable services are not ordered, or are terminated,
6 reasonable efforts shall be made to place the child in a timely
7 manner in accordance with the permanent plan and to complete
8 all steps necessary to finalize the permanent placement of the child.

9 (c) (1) If out-of-home placement is used to attain case plan
10 goals, the decision regarding choice of placement shall be based
11 upon selection of a safe setting that is the least restrictive or most
12 family like and the most appropriate setting that is available and
13 in close proximity to the parent's home, proximity to the child's
14 school, and consistent with the selection of the environment best
15 suited to meet the child's special needs and best interests. The
16 selection shall consider, in order of priority, placement with
17 relatives, tribal members, and foster family, group care, and
18 residential treatment pursuant to Section 7950 of the Family Code.
19 On or after January 1, 2012, for a nonminor dependent, as defined
20 in subdivision (v) of Section 11400, who is receiving AFDC-FC
21 benefits up to 21 years of age pursuant to Section 11403, in
22 addition to the above requirements, the selection of the placement,
23 including a supervised independent living setting, as described in
24 Section 11400, shall also be based upon the developmental needs
25 of young adults by providing opportunities to have incremental
26 responsibilities that prepare a nonminor dependent to transition to
27 independent living. If admission to, or continuation in, a group
28 home placement is being considered for a nonminor dependent,
29 the group home placement approval decision shall include a
30 youth-driven, team-based case planning process, as defined by the
31 department, in consultation with stakeholders. The case plan shall
32 consider the full range of placement options, and shall specify why
33 admission to, or continuation in, a group home placement is the
34 best alternative available at the time to meet the special needs or
35 well-being of the nonminor dependent, and how the placement
36 will contribute to the nonminor dependent's transition to
37 independent living. The case plan shall specify the treatment
38 strategies that will be used to prepare the nonminor dependent for
39 discharge to a less restrictive and more family-like setting,
40 including a target date for discharge from the group home

1 placement. The placement shall be reviewed and updated on a
2 regular, periodic basis to ensure that continuation in the group
3 home remains in the best interests of the nonminor dependent and
4 that progress is being made in achieving case plan goals leading
5 to independent living. The group home placement planning process
6 shall begin as soon as it becomes clear to the county welfare
7 department or probation office that a foster child in group home
8 placement is likely to remain in group home placement on his or
9 her 18th birthday, in order to expedite the transition to a less
10 restrictive and more family-like setting if he or she becomes a
11 nonminor dependent. The case planning process shall include
12 informing the youth of all of his or her options, including, but not
13 limited to, admission to or continuation in a group home placement.
14 Consideration for continuation of existing group home placement
15 for a nonminor dependent under 19 years of age may include the
16 need to stay in the same placement in order to complete high
17 school. After a nonminor dependent either completes high school
18 or attains his or her 19th birthday, whichever is earlier, continuation
19 in or admission to a group home is prohibited unless the nonminor
20 dependent satisfies the conditions of paragraph (5) of subdivision
21 (b) of Section 11403, and group home placement functions as a
22 short-term transition to the appropriate system of care. Treatment
23 services provided by the group home placement to the nonminor
24 dependent to alleviate or ameliorate the medical condition, as
25 described in paragraph (5) of subdivision (b) of Section 11403,
26 shall not constitute the sole basis to disqualify a nonminor
27 dependent from the group home placement.

28 (2) In addition to the requirements of paragraph (1), and taking
29 into account other statutory considerations regarding placement,
30 the selection of the most appropriate home that will meet the child's
31 special needs and best interests shall also promote educational
32 stability by taking into consideration proximity to the child's school
33 of origin, and school attendance area, the number of school
34 transfers the child has previously experienced, and the child's
35 school matriculation schedule, in addition to other indicators of
36 educational stability that the Legislature hereby encourages the
37 State Department of Social Services and the State Department of
38 Education to develop.

39 (d) A written case plan shall be completed within a maximum
40 of 60 days of the initial removal of the child or of the in-person

1 response required under subdivision (f) of Section 16501 if the
2 child has not been removed from his or her home, or by the date
3 of the dispositional hearing pursuant to Section 358, whichever
4 occurs first. The case plan shall be updated, as the service needs
5 of the child and family dictate. At a minimum, the case plan shall
6 be updated in conjunction with each status review hearing
7 conducted pursuant to Section 366.21, and the hearing conducted
8 pursuant to Section 366.26, but no less frequently than once every
9 six months. Each updated case plan shall include a description of
10 the services that have been provided to the child under the plan
11 and an evaluation of the appropriateness and effectiveness of those
12 services.

13 (1) It is the intent of the Legislature that extending the maximum
14 time available for preparing a written case plan from 30 to 60 days
15 will afford caseworkers time to actively engage families, and to
16 solicit and integrate into the case plan the input of the child and
17 the child's family, as well as the input of relatives and other
18 interested parties.

19 (2) The extension of the maximum time available for preparing
20 a written case plan from the 30 to 60 days shall be effective 90
21 days after the date that the department gives counties written notice
22 that necessary changes have been made to the Child Welfare
23 Services Case Management System to account for the 60-day
24 timeframe for preparing a written case plan.

25 (e) The child welfare services case plan shall be comprehensive
26 enough to meet the juvenile court dependency proceedings
27 requirements pursuant to Article 6 (commencing with Section 300)
28 of Chapter 2 of Part 1 of Division 2.

29 (f) The case plan shall be developed as follows:

30 (1) The case plan shall be based upon an assessment of the
31 circumstances that required child welfare services intervention.
32 The child shall be involved in developing the case plan as age and
33 developmentally appropriate.

34 (2) The case plan shall identify specific goals and the
35 appropriateness of the planned services in meeting those goals.

36 (3) The case plan shall identify the original allegations of abuse
37 or neglect, as defined in Article 2.5 (commencing with Section
38 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
39 conditions cited as the basis for declaring the child a dependent of
40 the court pursuant to Section 300, or all of these, and the other

precipitating incidents that led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social services agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

(5) (A) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(B) Information regarding any court-ordered visitation between the child and the natural parents or legal guardians, and the terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the

1 appropriate means and setting for disclosure of this information
2 to the child commensurate with the child's age and emotional
3 well-being. These significant life events shall include, but shall
4 not be limited to, the following:

5 (A) The death of an immediate relative.

6 (B) The birth of a sibling.

7 (C) Significant changes regarding a dependent child, unless the
8 child objects to the sharing of the information with his or her
9 siblings, including changes in placement, major medical or mental
10 health diagnoses, treatments, or hospitalizations, arrests, and
11 changes in the permanent plan.

12 (7) If out-of-home placement is made in a foster family home,
13 group home, or other child care institution that is either a
14 substantial distance from the home of the child's parent or out of
15 state, the case plan shall specify the reasons why that placement
16 is in the best interest of the child. When an out-of-state group home
17 placement is recommended or made, the case plan shall, in
18 addition, specify compliance with Section 7911.1 of the Family
19 Code.

20 (8) Effective January 1, 2010, a case plan shall ensure the
21 educational stability of the child while in foster care and shall
22 include both of the following:

23 (A) An assurance that the placement takes into account the
24 appropriateness of the current educational setting and the proximity
25 to the school in which the child is enrolled at the time of placement.

26 (B) An assurance that the placement agency has coordinated
27 with the person holding the right to make educational decisions
28 for the child and appropriate local educational agencies to ensure
29 that the child remains in the school in which the child is enrolled
30 at the time of placement or, if remaining in that school is not in
31 the best interests of the child, assurances by the placement agency
32 and the local educational agency to provide immediate and
33 appropriate enrollment in a new school and to provide all of the
34 child's educational records to the new school.

35 (9) (A) If out-of-home services are used, or if parental rights
36 have been terminated and the case plan is placement for adoption,
37 the case plan shall include a recommendation regarding the
38 appropriateness of unsupervised visitation between the child and
39 any of the child's siblings. This recommendation shall include a
40 statement regarding the child's and the siblings' willingness to

1 participate in unsupervised visitation. If the case plan includes a
2 recommendation for unsupervised sibling visitation, the plan shall
3 also note that information necessary to accomplish this visitation
4 has been provided to the child or to the child's siblings.

5 (B) Information regarding the schedule and frequency of the
6 visits between the child and siblings, as well as any court-ordered
7 terms and conditions needed to facilitate the visits while protecting
8 the safety of the child, shall be provided to the child's out-of-home
9 caregiver as soon as possible after the court order is made.

10 (10) If out-of-home services are used and the goal is
11 reunification, the case plan shall describe the services to be
12 provided to assist in reunification and the services to be provided
13 concurrently to achieve legal permanency if efforts to reunify fail.
14 The plan shall also consider in-state and out-of-state placements,
15 the importance of developing and maintaining sibling relationships
16 pursuant to Section 16002, and the desire and willingness of the
17 caregiver to provide legal permanency for the child if reunification
18 is unsuccessful.

19 (11) If out-of-home services are used, the child has been in care
20 for at least 12 months, and the goal is not adoptive placement, the
21 case plan shall include documentation of the compelling reason
22 or reasons why termination of parental rights is not in the child's
23 best interest. A determination completed or updated within the
24 past 12 months by the department when it is acting as an adoption
25 agency or by a licensed adoption agency that it is unlikely that the
26 child will be adopted, or that one of the conditions described in
27 paragraph (1) of subdivision (c) of Section 366.26 applies, shall
28 be deemed a compelling reason.

29 (12) (A) Parents and legal guardians shall have an opportunity
30 to review the case plan, and to sign it whenever possible, and then
31 shall receive a copy of the plan. In a voluntary service or placement
32 agreement, the parents or legal guardians shall be required to
33 review and sign the case plan. Whenever possible, parents and
34 legal guardians shall participate in the development of the case
35 plan. Commencing January 1, 2012, for nonminor dependents, as
36 defined in subdivision (v) of Section 11400, who are receiving
37 AFDC-FC up to 21 years of age pursuant to Section 11403, the
38 transitional independent living case plan, as set forth in subdivision
39 (y) of Section 11400, shall be developed with, and signed by, the
40 nonminor.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21 or 366.22 as evidence.

(13) A child shall be given a meaningful opportunity to participate in the development of the case plan and state his or her preference for foster care placement. A child who is 12 years of age or older and in a permanent placement shall also be given the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan.

(14) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan. If out-of-home services are used with the goal of family reunification, the case plan shall consider and describe the application of subdivision (b) of Section 11203.

(15) If the case plan has as its goal for the child a permanent plan of adoption or placement in another permanent home, it shall include a statement of the child's wishes regarding their permanent placement plan and an assessment of those stated wishes. The agency shall also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, the documentation shall include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, when the child has been freed for adoption. If the plan is for kinship guardianship, the case plan shall document how the child meets the kinship guardianship eligibility requirements.

1 (16) (A) When appropriate, for a child who is 16 years of age
2 or older and, commencing January 1, 2012, for a nonminor
3 dependent, the case plan shall include a written description of the
4 programs and services that will help the child, consistent with the
5 child's best interests, prepare for the transition from foster care to
6 independent living, and whether the youth has an in-progress
7 application pending for Title XVI Supplemental Security Income
8 benefits or for Special Juvenile Immigration Status or other
9 applicable application for legal residency and an active dependency
10 case is required for that application. When appropriate, for a
11 nonminor dependent, the case plan shall include a written
12 description of the program and services that will help the nonminor
13 dependent, consistent with his or her best interests, to prepare for
14 transition from foster care and assist the youth in meeting the
15 eligibility criteria set forth in Section 11403. If applicable, the case
16 plan shall describe the individualized supervision provided in the
17 supervised independent living setting as defined, in subdivision
18 (w) of Section 11400. The case plan shall be developed with the
19 child or nonminor dependent and individuals identified as important
20 to the child or nonminor dependent, and shall include steps the
21 agency is taking to ensure that the child or nonminor dependent
22 achieves permanence, including maintaining or obtaining
23 permanent connections to caring and committed adults.

24 (B) During the 90-day period prior to the participant attaining
25 18 years of age or older as the state may elect under Section
26 ~~475(8)(B)(iii) (42 U.S.C. Sec. 675(8)(B)(iii))~~ of the federal Social
27 Security Act (~~42 U.S.C. Sec. 675(8)(B)(iii)~~), whether during that
28 period foster care maintenance payments are being made on the
29 child's behalf or the child is receiving benefits or services under
30 Section ~~477 (42 U.S.C. Sec. 677)~~ of the federal Social Security
31 Act (~~42 U.S.C. Sec. 677~~), a caseworker or other appropriate agency
32 staff or probation officer and other representatives of the
33 participant, as appropriate, shall provide the youth or nonminor
34 with assistance and support in developing the written 90-day
35 transition plan, that is personalized at the direction of the child,
36 information as detailed as the participant elects that shall include,
37 but not be limited to, options regarding housing, health insurance,
38 education, local opportunities for mentors and continuing support
39 services, and workforce supports and employment services, a

1 power of attorney for health care and information regarding the
2 advance health care directive form.

3 (g) If the court finds, after considering the case plan, that
4 unsupervised sibling visitation is appropriate and has been
5 consented to, the court shall order that the child or the child's
6 siblings, the child's current caregiver, and the child's prospective
7 adoptive parents, if applicable, be provided with information
8 necessary to accomplish this visitation. This section does not
9 require or prohibit the social worker's facilitation, transportation,
10 or supervision of visits between the child and his or her siblings.

11 (h) The case plan documentation on sibling placements required
12 under this section shall not require modification of existing case
13 plan forms until the Child Welfare Services Case Management
14 System is implemented on a statewide basis.

15 (i) When a child who is 10 years of age or older and who has
16 been in out-of-home placement for six months or longer, the case
17 plan shall include an identification of individuals, other than the
18 child's siblings, who are important to the child and actions
19 necessary to maintain the child's relationship with those
20 individuals, provided that those relationships are in the best interest
21 of the child. The social worker shall ask every child who is 10
22 years of age or older and who has been in out-of-home placement
23 for six months or longer to identify individuals other than the
24 child's siblings who are important to the child, and may ask any
25 other child to provide that information, as appropriate. The social
26 worker shall make efforts to identify other individuals who are
27 important to the child, consistent with the child's best interests.

28 (j) The child's caregiver shall be provided a copy of a plan
29 outlining the child's needs and services.

30 (k) On or before June 30, 2008, the department, in consultation
31 with the County Welfare Directors Association *of California* and
32 other advocates, shall develop a comprehensive plan to ensure that
33 90 percent of foster children are visited by their caseworkers on a
34 monthly basis by October 1, 2011, and that the majority of the
35 visits occur in the residence of the child. The plan shall include
36 any data reporting requirements necessary to comply with the
37 provisions of the federal Child and Family Services Improvement
38 Act of 2006 (Public Law 109-288).

39 (l) The implementation and operation of the amendments to
40 subdivision (i) enacted at the 2005–06 Regular Session shall be

1 subject to appropriation through the budget process and by phase,
2 as provided in Section 366.35.

3 SEC. 23. If the Commission on State Mandates determines
4 that this act contains costs mandated by the state, reimbursement
5 to local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

O